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Presidential Documents

Title 3—

The President

Proclamation 7727 of October 30, 2003

National Hospice Month, 2003

By the President of the United States of America

A Proclamation

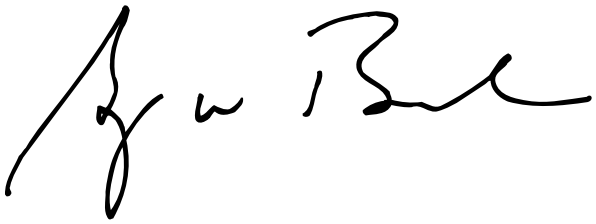
Hospice care plays an important role in American medicine by easing a patient's suffering while reaffirming individual dignity in a familiar, comfortable environment. Across our Nation, hospice care providers are assisting in hospitals, nursing homes, and private residences, offering physical, emotional, and spiritual support to patients who often have a short life expectancy.

Hospice teams consist of physicians, nurses, social workers, counselors, and volunteers who are experts in end-of-life issues. They offer pain management, therapy, nutrition, and other supportive care in the home or other comfortable surroundings, making it easier for patients, family members, and friends to spend time together in their loved one's final days. Hospice experts also offer grief counseling to friends and family members after their loss.

Every stage of human life deserves to be treated with respect and care. I commend all those who work and volunteer as hospice care providers. Their contributions make our Nation a better place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby 2 proclaim November 2003 as National Hospice Month. I encourage Americans to increase their awareness of hospice service and to observe this month with appropriate activities and programs.

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



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Rules and Regulations

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 1240

[Docket No. 2003N–0400]

RIN 0910–ZA21

Centers for Disease Control and Prevention

42 CFR Part 71

Control of Communicable Diseases; Restrictions on African Rodents, Prairie Dogs, and Certain Other Animals

AGENCIES: Centers for Disease Control and Prevention, Food and Drug Administration (HHS).

ACTION: Interim final rule; opportunity for public comment.

SUMMARY: The Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA) are issuing this interim final rule to amend their regulations to establish new restrictions and modify existing restrictions on the import, capture, transport, sale, barter, exchange, distribution, and release of African rodents, prairie dogs, and certain other animals. We are taking this action to prevent the spread of monkeypox, a communicable disease, in the United States.

DATES: The interim final rule is effective on November 4, 2003. Submit written or electronic comments on this interim final rule by January 20, 2004.

ADDRESSES: *For FDA*: Send written comments on the rule and on the information collection to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

For CDC: Send written comments on the information collection to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Rd., MS E11, Atlanta, GA 30333. Comments on the rule itself should be sent to FDA's Division of Dockets Management (see FDA addresses).

FOR FURTHER INFORMATION CONTACT:

For information regarding FDA: Philip L. Chao, Office of Policy and Planning (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0587.

For information regarding CDC: James E. Barrow, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Mailstop C–14, 1600 Clifton Rd., Atlanta, GA 30333, 404–498–1600.

SUPPLEMENTARY INFORMATION:

I. What Is Monkeypox, and How Did It Spread in the United States?

Monkeypox is a rare, zoonotic, viral disease that occurs primarily in the rain forest countries in central and west Africa. (A zoonotic disease is a disease of animals that can be transmitted to humans under natural conditions.) The illness was first noted in monkeys in 1958 (which explains its name), but, in Africa, serologic evidence of monkeypox infection has been found in many other species, including some species of primates, rodents, and lagomorphs (which includes such animals as rabbits). African rodents are considered to be the most likely natural host of the monkeypox virus (Ref. 1).

In humans, monkeypox is marked by rashes that are similar to those seen in smallpox; other signs and symptoms include a temperature at or above 99.3 degrees, chills and/or sweats, headache, backache, lymphadenopathy (a disease of the lymph nodes), sore throat, cough, and shortness of breath (Ref. 2). The disease's incubation period is approximately 12 days (Ref. 3). In Africa, monkeypox has a mortality rate in humans ranging from 1 to 10 percent.

As of July 8, 2003, there have been 35 laboratory-confirmed cases of monkeypox in people in the United States, and about another three dozen suspect and probable cases under investigation, in Illinois, Indiana, Kansas, Ohio, Missouri, and Wisconsin (Ref. 4). As of July 11, 2003, 16 persons were reported to have been hospitalized; however, some of these hospitalizations were for isolation purposes unrelated to illness. Among those hospitalized, two were children who required intensive care, one for severe monkeypox-associated encephalitis (encephalitis is an inflammation of the brain), and one with profound painful cervical and tonsillar adenopathy (adenopathy refers to an enlargement of the glands) and diffuse pox lesions, including lesions in the oropharynx. Both children recovered from their illness.

In the United States, individuals apparently began contracting monkeypox in early May, 2003, primarily as a result of contact with prairie dogs that had contracted monkeypox from diseased African rodents. Investigations indicate that a Texas animal distributor imported a shipment of approximately 800 small mammals from Ghana on April 9, 2003, and that shipment contained 762 African rodents, including rope squirrels (*Funiscuirus* sp.), tree squirrels (*Heliosciurus* sp.), Gambian giant pouched rats (*Cricetomys* sp.), brushtail porcupines (*Atherurus* sp.), dormice (*Graphiurus* sp.), and striped mice (*Hybomys* sp.). Some animals were infected with monkeypox, and CDC laboratory testing confirmed the presence of monkeypox in several rodent species, including one Gambian giant pouched rat, three dormice, and two rope squirrels (Ref. 4). Of the 762 rodents from the original shipment, 584 have been traced to distributors in six states. A total of 178 African rodents could not be traced beyond the point of entry in Texas because records were not available (Ref. 4). The number of animals traced may change as the investigation continues.

II. What Actions Have Been Taken to Prevent the Spread of Monkeypox?

Non-native animal species, such as the African rodents, can create serious public health problems when they introduce a new disease, such as monkeypox, to the native animal and human populations. The transportation, sale, or distribution of an infected animal, or the release of an infected animal into the environment can result in the further spread of disease to other animal species and to humans.

Several States have issued orders or emergency rules to prohibit the

importation, sale, distribution, release, disposal, and/or display of prairie dogs and certain rodents (Refs. 5 through 11). However, these State efforts are limited to their respective jurisdictions, and some State orders or rules expire on a specific date, while others differ in the types of animals and actions that are covered. Communicable diseases, such as monkeypox, are not confined by State borders and, as shown by the presence of the monkeypox virus in prairie dogs, may affect multiple animal species. Consequently, Federal action was necessary to help prevent the spread of monkeypox. On June 11, 2003, the Director of CDC and the Commissioner of Food and Drugs, under 42 CFR 70.2 and 21 CFR 1240.30 respectively, issued a joint order (Ref. 12) prohibiting, until further notice, the transportation or offering for transportation in interstate commerce, or the sale, offering for sale, or offering for any other type of commercial or public distribution, including release into the environment, of:

- Prairie dogs (*Cynomys* sp.);
- Tree squirrels (*Heliosciurus* sp.);
- Rope squirrels (*Funisciurus* sp.);
- Dormice (*Graphiurus* sp.);
- Gambian giant pouched rats (*Cricetomys* sp.);
- Brush-tailed porcupines (*Atherurus* sp.), and
- Striped mice (*Hybomys* sp.).

The June 11, 2003, order did not apply to the transport of these animals to veterinarians or animal control officials or other entities under guidance or instructions issued by Federal, State, or local government authorities. In addition, under 42 CFR 71.32(b), CDC implemented an immediate embargo on the importation of all rodents from Africa (order *Rodentia*).

Both CDC and FDA are also working closely with other Federal agencies, such as the Animal and Plant Health Inspection Service (APHIS) in the Department of Agriculture (USDA), the Fish and Wildlife Service (FWS) in the Department of the Interior, Customs and Border Protection in Department of Homeland Security, and the Department of Transportation. FDA and CDC are also working with numerous State and local agencies to prevent further exposure of animals and people to the monkeypox virus.

III. What Does The Interim Final Rule Do?

A. Why Are FDA and CDC Issuing an Interim Final Rule?

We issued the June 11, 2003, order to address quickly what was then a new and rapidly developing monkeypox outbreak (Ref. 13). We now are able to provide a more detailed set of measures aimed at creating a regulatory approach to prevent the monkeypox virus from becoming established and spreading in the United States, with exemption procedures to accommodate special circumstances, and are doing so by issuing this interim final rule. This interim final rule supersedes the June 11, 2003, order. As appropriate, we will amend the interim final rule in response to comments and to any new developments in the monkeypox outbreak.

This interim final rule creates two complementary regulations. First, with respect to certain animals that are in the United States, the interim final rule adds 21 CFR 1240.63, entitled ''African rodents and other animals that may carry the monkeypox virus.'' FDA will enforce 21 CFR 1240.63. Second, for African rodents that are being imported or offered for import to the United States, the interim final rule adds 42 CFR 71.56, that is also entitled ''African rodents and other animals that may carry the monkeypox virus.'' CDC will enforce 42 CFR 71.56. Together, 21 CFR 1240.63 and 42 CFR 71.56 are intended to prevent the establishment and spread of the monkeypox virus in the United States.

Section 361 of the Public Health Service Act (PHS act) (42 U.S.C. 264) serves as the legal authority for both 21 CFR 1240.63 and 42 CFR 71.56. Section 361 of the PHS act gives the Secretary of Health and Human Services the authority to make and enforce regulations to prevent the introduction, transmission, and spread of communicable diseases from foreign countries into the States or from one State to another State. As we explain in section IV of this document, both FDA and CDC have issued regulations under section 361 of the PHS act, and several FDA regulations are similar or identical to CDC regulations. Here, however, the responsibilities are being divided between our two agencies. FDA's regulation focuses on animals moving between and within States while CDC's regulation focuses on imported animals. Our goal in creating separate FDA and CDC regulations is to use our limited resources to deal with the current monkeypox situation in the most efficient manner possible.

B. What Does FDA's Rule Say?

1. Where Is the Rule Codified? (21 CFR 1240.63)

As we stated in section III.A of this document, the interim final rule adds 21 CFR 1240.63, entitled ''African rodents and other animals that may carry the monkeypox virus.''

2. What Does the Rule Prohibit? (21 CFR 1240.63(a))

21 CFR 1240.63(a)(1) contains several general prohibitions. In brief, under 21 CFR 1240.63(a)(1)(i), regardless of your status (such as a pet dealer, pet owner, researcher, animal trapper, zoological park administrator, etc.), you must not capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, offer to distribute, or release into the environment:

- Prairie dogs (*Cynomys* sp.),
- African Tree squirrels (*Heliosciurus* sp.),
- Rope squirrels (*Funisciurus* sp.),
- African Dormice (*Graphiurus* sp.),
- Gambian giant pouched rats (*Cricetomys* sp.),
- Brush-tailed porcupines (*Atherurus* sp.),
- Striped mice (*Hybomys* sp.), or
- Any other animal so prohibited by order of the Commissioner of Food and Drugs because of that animal's potential to transmit the monkeypox virus.

For convenience, this preamble will refer to the above animals as ''listed animals.''

The interim final rule covers the listed animals because animals from those species have been associated, either directly through laboratory tests or indirectly through epidemiological evidence, in the current outbreak of the monkeypox virus in humans (Ref. 14). In general, the animals identified in 21 CFR 1240.63 are the same as those listed in the CDC-FDA order dated June 11, 2003, except that the rule also refers to other, yet-unspecified kinds of animals that the Commissioner of Food and Drugs may prohibit by order. FDA included the latter ''catch-all'' provision in § 1240.63 because the agency cannot preclude the possibility that monkeypox may spread to other animal species, and, if monkeypox is found in other animals, FDA needs to be able to list those animals quickly. FDA derives its authority to list such animals by order from section 361 of the Public Health Service Act, which is the same statutory authority under which it is issuing this interim final rule. This statutory provision authorizes the Secretary to make and enforce regulations to prevent the introduction, transmission, and spread of communicable diseases. Section 1240.63(b)(1) of the interim final rule (which we discuss later in this section) allows FDA to issue orders causing such animals to be quarantined or destroyed and to ''take any other action necessary to prevent the spread

of the monkeypox virus.'' Such ''other actions'' may include issuing orders necessary to prevent the spread of monkeypox. An order adding animals to those ''listed animals'' that have the potential to transmit the monkeypox virus is such an order since control of animals that may transmit monkeypox is necessary to prevent the spread of this communicable disease.

The interim final rule prohibits capture, offers to capture, transport, offers to transport, sale, barter, or exchange, offers to sell, barter, or exchange distribution, offers to distribute, or release of a listed animal into the environment regardless of whether the activity is interstate or intrastate. The June 11, 2003, order referred to ''transportation in interstate commerce.'' This created some confusion about whether the order applied to activities occurring within a State. In this interim final rule, FDA makes clear that the restrictions apply to both interstate and intrastate activities. The interim final rule must reach intrastate activities because FDA cannot effectively prevent interstate transmission of communicable disease without addressing intrastate transmission. This is due to the fact that an infected animal could transmit the monkeypox virus to other animals within a State, and eventually and inevitably the monkeypox virus would be transmitted to other States as infected wild animals or even infected, domesticated animals crossed State borders. Effective intrastate controls are, therefore, an integral part of efforts to prevent interstate transmission of communicable disease.

21 CFR 1240.63(a)(1)(i) also prohibits the capture and offers to capture listed animals. For purposes of this rule, ''capture'' means the act of catching or confining an animal in the wild with the intent of removing that animal for sale, barter, or exchange, distribution, and/or release into the environment. So, for example, 21 CFR 1240.63(a)(1)(i) prohibits a person from taking prairie dogs from their burrows for purposes of selling those prairie dogs, but it would not consider the act of immobilizing a prairie dog, taking measurements or biological samples (such as blood samples), and then releasing the prairie dog as constituting ''capture.'' Similarly, if a prairie dog escaped from its cage in a pet store, catching the prairie dog to put it back in its cage would not constitute ''capture'' within 21 CFR 1240.63(a)(1)(i). As another example, individuals sometimes shoot prairie dogs because their burrows may present a hazard to cattle and horses; shooting a prairie dog would not constitute ''capture'' within 21 CFR 1240.63(a)(1)(i). We recommend that you dispose of dead prairie dogs appropriately in consultation with State wildlife control officials and following applicable CDC guidance. The prohibition against capture and offers to capture is an appropriate and logical extension of the June 11, 2003, order because, for example, it would be illogical to prohibit wild prairie dogs from being transported, but still allow them to be captured. An infectious animal could transmit the monkeypox virus to humans during its capture, just as it could transmit the monkeypox virus when a human handled the animal during transport. Therefore, the interim final rule prohibits the capture of listed animals and offers to capture such animals.

Furthermore, 21 CFR 1240.63(a)(1)(i) prohibits the distribution of listed animals. Prohibiting distribution is another appropriate and logical extension of the June 11, 2003, order. The June 11, 2003, order prohibited, in relevant part, ''offering for commercial or public distribution,'' yet was silent regarding the actual distribution of listed animals. To clarify FDA's intent, 21 CFR 1240.63(a)(1)(i) prohibits the distribution of listed animals in addition to the other prohibitions. FDA has also simplified the rule by prohibiting offers to distribute listed animals rather than ''offers for commercial or public distribution'' that were in the June 11, 2003, order. The June 11, 2003, order made no distinction between ''commercial or public distribution'' and other types of distribution, nor did it indicate that non-commercial or nonpublic distribution presented lesser risk of transmitting the monkeypox virus. Consequently, 21 CFR 1240.63(a)(1)(i) now states, in relevant part, that you must not ''offer to distribute'' a listed animal.

21 CFR 1240.63(a)(1)(i) also prohibits ''sale, barter, or exchange'' and ''offers to sell, barter, or exchange'' listed animals. Animals are sometimes traded or exchanged at ''swap meets,'' and such trades or exchanges might not be considered to be ''sales.'' Therefore, 21 CFR 1240.63(a)(1)(i) prohibits the sale, barter, or exchange of listed animals and offers to sell, barter, or exchange listed animals.

FDA wishes to clarify that 21 CFR 1240.63 applies regardless of whether an animal is alive or dead. Dead animals could still harbor the monkeypox virus and could be infectious, so the agency cannot ignore such dead animals as a potential source for infection. Therefore, to protect the public health to the best extent possible, 21 CFR 1240.63(a)(1)(i) pertains to dead animals.

21 CFR 1240.63(a)(1)(ii) states that you must not prevent or attempt to prevent FDA from causing a listed animal to be quarantined or destroyed pursuant to a written order for the animal's quarantine or destruction. (For purposes of this rule, ''quarantine'' means that the animal is held or stored in an isolated area, and all further movement has been restricted so as not to expose other animals.) Although most individuals will cooperate with a written order to destroy an infected animal, some individuals may want to avoid causing an animal's destruction by releasing the animal instead (Ref. 15). Releasing an infected or potentially infected animal would create a serious risk to animal and human health because the monkeypox virus could then spread to domestic animal species and to humans and could become established in the United States. Therefore, if you prevent or attempt to prevent FDA from causing an animal to be quarantined or destroyed, you may be subject to criminal penalties. Penalties are discussed in part IV below.

FDA repeats that prohibiting the capture, offer to capture, transport, offer to transport, sale, barter, or exchange, offer to sell, barter, or exchange, distribution, offer to distribute, and release of listed animals is vital to prevent the monkeypox virus from becoming established and spreading in the United States. Nevertheless, the agency also recognizes that there are limited circumstances warranting exemptions from some prohibitions, such as the need to transport an animal for zoological, educational, medical, scientific, or other purposes. Consequently, 21 CFR 1240.63(a)(2) allows you to:

- Transport a listed animal to a veterinarian or animal control official for veterinary care, quarantine, or destruction purposes; and
- Capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, offer to distribute, and/or release a listed animal into the environment after receiving written permission from FDA. Section 1240.63(a)(2)(ii) states, however, that you may not seek written permission to sell, barter, exchange, or offer to sell, barter, or exchange a listed animal as a pet. We do not intend to permit pet sales (or barter or exchange) because the monkeypox outbreak developed in the pet industry, and exposure to infected animals intended as pets led to infections in prairie dogs. The infected prairie dogs, in turn, infected humans.

Thus, compared to animals in the wild pets present a greater potential risk for transmitting the monkeypox virus.

To illustrate when transport of a listed animal to a veterinarian or animal control official would be allowed, assume that an individual has a prairie dog that appears to be ill. Section 1240.63(a)(1)(i) would prohibit transportation of that animal, yet, under 21 CFR 1240.63(a)(2)(i), an individual could transport the prairie dog to a veterinarian for treatment. As another example, individuals might shoot prairie dogs because their burrows present a hazard to cattle and horses. In such a situation, 21 CFR 1240.63(a)(1)(i) would prohibit transportation of the prairie dog carcasses. However, under 21 CFR 1240.63(a)(2)(i), an individual could transport the prairie dog carcasses to animal control officials for incineration or other appropriate means of disposal.

21 CFR 1240.63(a)(2)(ii)(A) describes the procedures for seeking written permission from FDA. 21 CFR 1240.63(a)(2)(ii)(B) requires you to state the reasons why you need an exemption, describe the animals involved, describe the number of animals involved, describe how the animals will be transported (including carrying containers or cages, precautions for handlers, types of vehicles used, and other procedures to minimize exposure of animals and precautions to prevent animals from escaping into the environment), describe any holding facilities, quarantine procedures, and/or veterinarian evaluation involved in the animals' movement, and explain why an exemption will not result in the spread of monkeypox within the United States. For example, the description of the animals involved should identify the animal(s) and discuss the number of animals involved, their environment, and health conditions. The explanation of your reasons for seeking an exemption should show the justification, including need and benefits, relating to the requested exemption (such as public health reasons, scientific research, ecological reasons, etc.). FDA will grant exemptions on a case-by-case basis and only for specific purposes and in specific circumstances. Thus, for example, if you receive written permission to transport prairie dogs from city A to city B, but you later want to move the same prairie dogs to a third location, city C, you would have to seek written permission to move the prairie dogs from city B to city C. Depending on the number and nature of exemption requests it receives, FDA may publish a guidance document to describe the types of information it would like to see in an exemption request. Under 21 CFR 1240.63(a)(2)(ii)(C), FDA will respond, in writing, to all requests, and it also may impose conditions in granting an exemption. If FDA decides against granting written permission, that decision could be reviewed under 21 CFR 10.75 (''Internal agency review of decisions'').

To illustrate when a person might seek written permission from FDA, the agency notes that efforts to reintroduce black-footed ferrets into certain areas may depend on the ability to transport wild prairie dogs and release them into the environment (Ref. 16). The black-footed ferrets use prairie dog burrows for shelter and also feed on prairie dogs. Thus, in this example, biologists working to reintroduce black-footed ferrets would seek written permission from FDA to capture, transport, and release prairie dogs in connection with each black-footed ferret program. They would also remain subject to any other Federal, State, local or tribal requirements.

In the previous example, the efforts involving the black-footed ferrets may have been the subject of other Federal and State permits. We acknowledge that the June 11, 2003, order stated that its prohibitions did not apply to persons who transport listed animals to veterinarians or animal control officials ''or other entities pursuant to guidance or instructions issued by federal, State, or local government authorities.'' The order's reference to Federal, State, and local government authorities has created some confusion as to whether any Federal or State permit issued before June 11, 2003, constituted ''guidance or instructions'' that would create an exception to the order. Through this interim final rule, we are clarifying that we do not consider all Federal, State, or local government permits as automatically creating an exception to the prohibitions against transport, sale, etc., because we have no assurance that such Federal, State, or local government permits provide adequate safeguards to prevent the spread of the monkeypox virus. Therefore, 21 CFR 1240.63(a)(2)(ii) requires you to obtain written permission from FDA to capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, offer to distribute, and/or release a listed animal into the environment.

We also acknowledge that 21 CFR 1240.63(a)(2)(ii) appears to conflict with a position that we took on July 2, 2003, in a document titled, ''Wild-to-Wild Translocation or Transportation of Prairie Dogs'' (''Wild-to-Wild document'') (Ref. 17). The Wild-to-Wild document was intended to address situations where a wild population of prairie dogs would be relocated to another wild habitat, and the document suggested that States that have not been implicated in the monkeypox outbreak issue guidance or instructions for translocating prairie dogs within a State, and it listed the States that had been implicated in the monkeypox outbreak as of June 27, 2003. The Wild-to-Wild document was interpreted as giving State and local governments in nonimplicated States the ability to decide on translocating prairie dogs without having to obtain an exemption from FDA or CDC. However, the policies expressed in the Wild-to-Wild document have caused some uncertainty, particularly as some States have been listed as being affected by the monkeypox virus, and then ''de-listed.'' For example, if a person began translocating prairie dogs in a non-listed State, but the State was then listed before the translocation process could be completed, should that person seek an exemption from FDA for those prairie dogs that had not been translocated before the State was listed? Or could the person complete the translocation process without an exemption from FDA because the translocation process began when the State was not listed? The Wild-to-Wild document also created the potential for conflicting policies between States. For example, one State could adopt strict criteria to ensure that certain safeguards were observed, while a neighboring State could have no criteria at all and decide on wild-to-wild translocations on an ad hoc basis. Given these issues and potential problems, we have decided that the written permits in 21 CFR 1240.63(a)(2)(ii)(B) must be obtained and will no longer observe the policies expressed in the Wild-to-Wild document. In other words, all wild-to-wild translocations or transportation of prairie dogs, other than those that occurred before the date of this interim final rule, will need a written permit under 21 CFR 1240.63(a)(2)(ii)(B), and the interim final rule supersedes the Wild-to-Wild document.

3. What Actions Can FDA Take? (21 CFR 1240.63(b))

FDA has limited knowledge as to which kinds of animals in the United States may be vulnerable to the monkeypox virus, but it is extremely difficult, if not impossible, to eradicate a virus once it becomes established in a country or region. For example, the

West Nile virus was unknown in the United States before 1999. The virus apparently arrived in the eastern United States and quickly spread, via mosquitoes, to domestic bird species, other animal species (such as horses), and to humans. In 1999, the virus was reported in 4 States; by October 2003, 45 States had reported cases of the West Nile virus activity in humans or other animals. The virus's continued spread in the United States suggests that it is now permanently established in the United States.

To prevent the monkeypox virus from spreading and becoming established in the United States, 21 CFR 1240.63(b)(1) authorizes FDA to take the following actions:

• Issue an order causing an animal to be placed in quarantine. An order causing an animal to be placed in quarantine could extend to kinds of animals not named in this interim final rule. For example, if a potentially infected prairie dog had been in contact with a ferret, it would be reasonable to quarantine the ferret to ensure that it was not infected with the monkeypox virus;

• Issue an order causing an animal to be destroyed; and

• Take other actions as necessary to prevent the spread of the monkeypox virus.

For example, if a pet store were going out of business, FDA could, under the interim final rule, make arrangements with the appropriate Federal, State, local and tribal authorities to take temporary possession of the animals.

21 CFR 1240.63(b)(1) also states that the authority to issue these orders or to take any other action is ''in addition to any other authorities in this part.'' The reference to other authorities includes, for example, 21 CFR 1240.30, which allows FDA to take measures to prevent the spread of communicable disease, ''including inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection.''

FDA will issue all orders in writing. The order will contain other details, such as the animals covered by the order, your ability to appeal the order (including instructions on filing an appeal), and any other conditions on quarantine or destruction. FDA officials ordinarily will not themselves quarantine or destroy an animal. Instead, FDA officials will order that the animal be quarantined or destroyed, and the individual receiving the order will be responsible for placing the animal in quarantine or having it destroyed and any costs associated with quarantining or destroying the animal. CDC has issued guidance to animal health officials on the disposition of animals (Refs. 18 and 19).

Additionally, there may be instances where it is difficult to identify an animal as belonging to a particular species. Some species may resemble another, and juvenile animals may look different from adult animals. Thus, if you capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, or offer to distribute any rodent, FDA strongly advises you to take steps to accurately and reliably identify the species involved. Accurate and reliable identification will reduce the potential for disagreements as to whether an animal or group of animals is or should be subject to an order and avoid potential, unfortunate instances where animals that cannot be readily identified or whose species identification is in dispute are included in an order to cause their destruction.

If a person violates 21 CFR 1240.63, that person may be subject to fines, imprisonment, and inspections. Penalties for violating the rule are discussed in section IV of this document.

4. Can You Appeal an Order? (21 CFR 1240.63(c))

If you receive a written order to cause an animal to be placed in quarantine or to cause an animal to be destroyed, 21 CFR 1240.63(c) allows you to appeal that order. Your appeal must be in writing and be submitted to FDA within 2 business days after you receive the order. As part of your appeal, you may request an informal hearing, and your appeal must include specific facts showing there is a genuine and substantial issue of fact that requires a hearing. For example, if the order was to cause the destruction of prairie dogs, and you have beavers instead of prairie dogs, a genuine and substantial issue of fact (i.e., whether you have the animals described in the order) would exist. In contrast, if the order was to cause the destruction of prairie dogs, and you simply disagreed with the idea of destroying any animal, there would be no genuine and substantial issue of fact, and FDA would not conduct a hearing for your appeal. The interim final rule instructs you to send your appeal to the FDA District Director whose office issued the order.

If FDA grants your request for an informal hearing, FDA will follow the regulatory hearing requirements at 21 CFR part 16, except that the written order will serve as notice of opportunity for a hearing for purposes of initiating the hearing under 21 CFR 16.22(a). Additionally, 21 CFR 1240.63(c)(3) states that the presiding officer will issue a decision instead of issuing a report and a recommended decision as would normally be required under 21 CFR 16.60(e) and (f). (Under pre-existing FDA regulations, the Commissioner of Food and Drugs may delegate the authority to an FDA employee to serve as the presiding officer (see 21 CFR 16.42(a).) The interim final rule gives the presiding officer the authority to issue a decision so that the agency may deal with infected or potentially infected animals quickly; otherwise, if the presiding officer were to issue reports and recommendations, final action on an animal's status would be delayed, and this would increase the possibility that the animal, if infected, could escape or otherwise transmit the monkeypox virus to humans or other animals.

FDA has also amended 21 CFR 16.1(b)(2) to add 21 CFR 1240.63 to the list of regulatory provisions for which a part 16 regulatory hearing is available.

C. What Does CDC's Rule Say?

1. Where Is the Rule Codified? (42 CFR 71.56)

The interim final rule creates a new 42 CFR 71.56 titled, ''African rodents and other animals that may carry the monkeypox virus.''

2. What Does the Rule Prohibit? (42 CFR 71.56(a))

42 CFR 71.56(a) contains only two general prohibitions. In brief, under 42 CFR 71.56(a)(1)(i), you must not import or offer to import any rodents, whether dead or alive, that were obtained, directly or indirectly, from Africa, or whose native habitat is Africa; any products derived from such rodents, any other animal, whether dead or alive, whose importation the Director of CDC has prohibited by order, or any products derived from such animals. This provision is intended to prevent the further importation of infected and potentially-infected rodents and represents a slight modification from the import restriction that appeared in the June 11, 2003, order. The June 11, 2003, order barred importation of ''all rodents from Africa.'' The rule's import prohibition is intended to make clear that it covers any rodents that were caught in Africa and then shipped directly to the United States or shipped to other countries before being imported to the United States. The prohibition also applies to rodents whose native habitat is in Africa, even if those rodents

were born elsewhere. For example, 42 CFR 71.56(a)(1)(i) would apply to a Gambian giant pouched rat even if that animal was born outside Africa. A broad import ban on African rodents is necessary because there is no quick, practical method for determining whether a specific animal was born in a particular geographic region. The import restriction complements efforts taken by the U.S. Fish and Wildlife Service to prevent the importation of infected animals (Ref. 20).

Similarly to 21 CFR 1240.63, 42 CFR 71.56 applies to dead animals. Some individuals have attempted to conceal ''bushmeat'' (a term used to describe meat obtained from animals taken in the wild or the ''bush'') from Federal authorities since the June 11, 2003, order was issued and others have attempted to import preserved specimens of listed species. The monkeypox virus can remain infectious in bushmeat (Refs. 1, 21, and 38), and CDC is unaware of data demonstrating the safety of raw or even prepared bushmeat. Preparation methods such as smoking, salting, or brining bushmeat may slow down bushmeat's decay, but may not render bushmeat free of infectious agents. Therefore, 42 CFR 71.56(a)(1) applies to live and dead African rodents.

42 CFR 71.56(a)(1)(ii) states that you must not prevent or attempt to prevent CDC from causing an animal to be quarantined, re-exported, or destroyed pursuant to a written order for that animal's quarantine, re-export, or destruction. (For purposes of this rule, ''quarantine'' means that the animal is held or stored in an isolated area, and all further movement has been restricted so as not to expose other animals.) Most individuals will cooperate with a written order to quarantine, re-export, or destroy an infected animal, but some individuals may attempt to avoid those consequences by releasing the animal instead. Releasing an infected or potentially infected animal would create a serious risk to animal and human health because the monkeypox virus could then spread to native animal species and become established in the United States. Therefore, if you prevent or attempt to prevent us from causing an animal to be quarantined, re-exported, or destroyed, you may be subject to criminal penalties. (For more information on penalties, section IV of this document.)

Similarly to 21 CFR 1240.63(a)(2), 42 CFR 71.56(a)(2) recognizes that there are limited circumstances warranting exemptions from some prohibitions. Consequently, under 42 CFR 71.56(a)(2), an individual may seek written permission from CDC to import any rodents that were obtained, directly or indirectly, from Africa, or whose native habitat is Africa, or any other kind of animal whose importation the Director has prohibited by order. The interim final rule describes the procedures for seeking written permission from CDC and the information that should be submitted with any request and also states that the request must be limited to scientific, exhibition (such as exhibition of an animal at a zoo), or educational purposes. CDC is limiting the request to scientific, exhibition, or educational purposes because it recognizes the important contributions that these rodents may make to science, education, and conservation. CDC will respond, in writing, to all requests, and it also may impose conditions in granting an exemption. If CDC decides against granting written permission, that decision may be appealed by writing to the CDC official whose office denied the request. The appeal must state the reasons for the appeal and show there is a genuine and substantial issue of fact in dispute. CDC will issue a written response to the appeal which will constitute final agency action.

42 CFR 71.56(a)(3) represents another exemption from the import restrictions. Some individuals have asked whether they could import taxidermied animals or animal trophies, while other questions have involved products derived from animals, such as brushes that use animal hair and animal skins. Products derived from rodents, such as products that use rodent hair, quills, bones, and skins, may contain viable monkeypox virus if the animal from which they are derived was infected with monkeypox. This is based on the fact that variola virus, a related pox virus, has been shown to remain viable in proteinaceous exudates for as long as 1 year (Ref. 22). If these products are properly processed to render them noninfectious, they pose no disease risk. Such processes would include inactivation by:

- Heat (heated to an internal temperature of 70 °C or placed in boiling water for a minimum of 30 minutes);
- Preservation in 2 percent formaldehyde;
- Chemically treating in acidic or alkaline solutions (soaking in a solution below pH 3.0 or above pH 11.5 for 24 hours); or
- The use of hypertonic salts.

Vaccinia virus, a related pox virus, was shown to be inactivated after heating in neutral salt buffer solution for 90 minutes at 50 °C or after heating for 60 minutes at 55 °C (Ref. 23). Support for these methods can be found in the pox virus material safety data sheet compiled by Health Canada, *http://www.hc-sc.gc.ca/pphb-dgspsp/msds-ftss/msds160e.html*, which states that pox viruses are rendered nonviable by 2 percent formaldehyde, and heating to ≤ 60 °C. Procedures for alkaline and acid inactivation are based on the OIE 2003 Terrestrial Animal Code procedures for food and mouth disease (Article 3.6.2.1) (*http://www.oie.int/eng/normes/MCode/A_00144.htm*). (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.) Products derived from African rodents, if treated using one of these methods, are not subject to the import prohibition at 42 CFR 71.56(a)(1) and may be imported without written permission from CDC. Similarly, fully taxidermied African rodents and completely finished trophies present no disease risk and therefore may be imported without written permission from CDC. Products imported under the exception in 42 CFR 71.56(a)(3) are subject to inspection to ensure that they do meet the conditions set forth in 42 CFR 71.56(a)(3).

3. What Actions Can CDC Take? (42 CFR 71.56(b))

To prevent the monkeypox virus from spreading and becoming established in the United States, 42 CFR 71.56(b) gives CDC the authority to:

- Issue an order causing an animal to be placed in quarantine;
- Issue an order causing an animal to be re-exported;
- Issue an order causing an animal to be destroyed; or
- Take any other action necessary to prevent the spread of the monkeypox virus.

The Director of CDC can also use other authorities to help prevent the spread of monkeypox. For example, under 42 CFR 71.32(b), if the Director has reason to believe that there is an article (including an animal) arriving at a United States port and that article is or may be infected with a communicable disease, the Director may require such actions as detention, disinfection, or other related measures necessary to prevent the introduction, transmission, or spread of communicable disease. Consequently, 42 CFR 71.56(b) recognizes that the Director may use other authorities, and states that the authority to issue orders or to take other action is ''in addition to any other authorities under this part.''

Any orders issued by CDC, similar to those issued by FDA, will be in writing and will contain other details, such as

the animals covered by the order, the ability to appeal an order, and any other conditions on quarantine, re-export, or destruction. CDC officials ordinarily will not themselves quarantine, re-export, or destroy an animal. Instead, CDC officials will order that the animal be quarantined, re-exported, or destroyed, and the individual receiving the order will be reponsible for placing the animal in quarantine or having it re-exported or destroyed and be responsible for any costs associated with quarantining, re-exporting, or destroying the animal. CDC has issued guidance to animal health officials on the disposition of animals.

CDC emphasizes that there may be instances where it is difficult to identify an animal as belonging to a particular species. Some species may resemble another, and juvenile animals may look different from adult animals. Thus, if you import any rodent, CDC strongly advises you to take steps to accurately and reliably identify the species involved. Accurate and reliable identification will reduce the potential for disagreements as to whether an animal is or should be subject to an order and avoid potential, unfortunate instances where animals that cannot be readily identified or whose species identification is in dispute are included in an order to cause their destruction.

4. Can You Appeal an Order? (42 CFR 71.56(c))

If you received a written order to cause an animal to be placed in quarantine, re-exported, or destroyed, 42 CFR 71.56(c) explains that you may appeal that order. Your appeal must be in writing and be submitted to the CDC official whose office issued the order, and you must submit the appeal within 2 business days after you receive the order. Your appeal must state the reasons for the appeal and show that there is a genuine and substantial issue of fact in dispute. CDC will issue a written response to the appeal which will constitute final agency action.

D. When Does the Rule Become Effective?

For the effective date of the interim final rule see the DATES section of this document.

E. Will We Revoke Or Amend the Rule if Monkeypox Is Eradicated in the United States?

Monkeypox is endemic in parts of Africa. Therefore, we do not anticipate revoking the prohibition on import of African rodents and any other animals that the Director of CDC has specified under 42 CFR 71.56(a)(1)(i). However, FDA will revoke or amend, as warranted, all or parts of 21 CFR 1240.63 if FDA concludes that monkeypox is eradicated or adequately controlled so that the virus does not become established in the United States. FDA's decision would depend on scientific principles for controlling zoonotic diseases. For example, if the incubation period is known, then it would be prudent to continue the restrictions for a time period that is double the incubation period to ensure that there is little further risk of infection or restarting the monkeypox outbreak. CDC tests on some animals involved in the original April 9, 2003, shipment from Ghana suggest that, insofar as dormice are concerned, the incubation period may be as long as 2.5 months. If FDA rounds this time frame up to 3 months, and then doubles the incubation period, there would appear to be little further risk of infection after 6 months had passed with no further evidence of monkeypox identified, and FDA would be able to take actions to revoke or amend 21 CFR 1240.63. The last infected animal from the April 9, 2003, shipment that died from monkeypox died on July 20, 2003. There have been no identified monkeypox cases in animals or people in the United States since that date. If no further monkeypox cases are identified in the United States, and if there is no new information warranting an extension of the 6-month time period, FDA intends to revoke or amend 21 CFR 1240.63 as early as January 20, 2004, which will be 6 months after July 20, 2003. At that time, if FDA decided to revoke or amend 21 CFR 1240.63, it would publish an appropriate document (such as a proposed rule or direct final rule) in the **Federal Register**. FDA invites comments on this approach.

We emphasize that any possible revocation or amendment of 21 CFR 1240.63 may also depend on new data or new developments. For example, various animal studies are being conducted to learn more about the incubation period and transmission dynamics of monkeypox. If those studies suggest that the period for incubation and transmission may be longer than 2.5 months, FDA could decide to recalculate the date on which it might revoke or amend 21 CFR 1240.63. Studies are also underway to determine whether certain species that may be infected with the virus, but not display any symptoms, can infect other species. To illustrate how the virus could spread from an asymptomatic animal, assume that an animal can carry the monkeypox virus, but that the animal does not develop monkeypox. If that animal later comes into contact with prairie dogs, a species which is already known to be susceptible to monkeypox, then the prairie dogs could become infected, and another monkeypox outbreak in prairie dogs could erupt. Again, if studies suggest that species can be asymptomatic, but still infectious, those results could cause FDA to recalculate the date on which it could revoke or amend 21 CFR 1240.6.

F. What Actions Can be Taken to Prevent Outbreaks of Other Zoonotic Diseases?

If another outbreak of a different zoonotic disease occurred in the United States, we would take actions comparable to those we have taken to address monkeypox, modifying those actions as appropriate to the new circumstances. However, we believe that the introduction of monkeypox into the United States shows that we need to develop measures to prevent or minimize the likelihood of other zoonotic disease introductions or outbreaks. As noted in section IV of this document, section 361 of the PHS Act authorizes the Secretary to make and enforce such regulations as judged necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or from one State to another State. We may regulate intrastate transactions under this authority as appropriate (see *State of Louisiana* v. *Mathews*, 427 F. Supp. 174 (E.D. La. 1977)). We may, therefore, publish a document in the **Federal Register** that would discuss possible regulatory approaches, such as:

- Banning the import into the United States, as well as the capture, sale and distribution within the United States, of certain categories of: Animals (e.g., rodents, marsupials, and bats), or animals captured in the wild, or animals captured in the wild from certain regions of the world, including regions within the United States (e.g., prairie dogs in the United States due to their potential to carry plague or tularemia); or
- Requiring health certifications and subsequent quarantine and health examination and/or testing prior to import or domestic distribution of certain categories of animals; or
- Requiring assessments of potential disease risks prior to import or domestic distribution of certain categories of animals, with the imposition of conditions or restrictions depending on the level of risk presented.

If we decide to publish a document in the **Federal Register** that addresses the

broader issues of zoonotic diseases and exotic species, that document will provide an opportunity for public comment on those issues.

IV. What Is the Legal Authority for This Rulemaking?

Because the public health objective is to prevent the spread of communicable disease, we are issuing the rule under section 361 of the Public Health Service Act (PHS act) (42 U.S.C. 264). Section 361 of the PHS act authorizes the Secretary to make and enforce such regulations as judged necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or from one State to another State. We may regulate intrastate transactions under this authority as appropriate (see *State of Louisiana* v. *Mathews*, 427 F. Supp. 174 (E.D. La. 1977)).

Section 361 of the PHS act also provides for such inspection and destruction of articles found to be so infected or contaminated as to be sources of dangerous infection to humans, and other measures, as may be deemed by the Secretary to be necessary.

We have invoked section 361 of the PHS act to regulate various activities and articles. FDA has invoked this authority, for example, to prevent the transmission of communicable disease through certain shellfish, turtles, certain birds, and human tissue intended for transplantation (see 21 CFR 1240.60 (molluscan shellfish), 1240.62 (turtles), 1240.65 (psittacine birds), and 1270.1 through 1270.43 (human tissue)). CDC has invoked section 361 of the PHS act to control the importation of dogs and cats, turtles, nonhuman primates, etiological agents, and dead bodies (see 42 CFR 71.51 through 71.55, respectively). CDC has also regulated the interstate shipment of etiologic agents under this authority (see 42 CFR part 72).

Section 368 of the PHS act (42 U.S.C. 271) provides the authority to enforce section 361 of the PHS act. Under section 368(a) of the PHS act, any person who violates a regulation prescribed under section 361 of the PHS act may be punished by imprisonment for up to 1 year (42 U.S.C. 271(a)). Individuals may also be punished for violating such a regulation by a fine of up to $100,000 per violation if death has not resulted from the violation or up to $250,000 per violation if death has resulted (18 U.S.C. 3559, 3571(b)). Organizations may be fined up to $200,000 per violation not resulting in death and $500,000 per violation resulting in death (18 U.S.C. 3559, 3571(c)). In addition, Federal district courts have jurisdiction to enjoin individuals and organizations from violating regulations implementing section 361 of the PHS Act. You should also note that if we add more animals under 21 CFR 1240.63(a)(1)(i)(H) or 42 CFR 71.56(a)(1)(i), any violation involving those additional animals would be considered to be a violation of a regulation prescribed under section 361 of the PHS act.

We are proceeding without notice and comment rulemaking because we need to have regulations in place immediately to address the monkeypox situation. Under the provisions of the Administrative Procedure Act at 5 U.S.C. 553(b)(B), we find for good cause that prior notice and comment on this rule are impracticable and contrary to the public interest. It is imperative that we act quickly to clarify and maintain restrictions on the African rodents, prairie dogs, and other animals to prevent the monkeypox virus from spreading and becoming established in the United States.

V. What Is the Environmental Impact?

FDA has determined under 21 CFR 25.32(g) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In the absence of an applicable categorical exclusion, the Director, CDC, has determined that provisions amending 42 CFR part 70 will not have a significant impact on the human environment. This determination is consistent with the FDA determination that the provisions in 21 CFR part 1240 are covered by a categorical exclusion.

VI. What Is the Result of the Analysis of Impacts?

We have examined the impacts of the interim final rule under Executive Order 12866, and the Regulatory Flexibility Act (5 U.S.C. 601–612), and under the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity). Unless we certify that the rule is not expected to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act, as amended by the Small Business Regulatory Flexibility Act (SBREFA), requires agencies to analyze regulatory options that would minimize any significant economic impact of a rule on small entities. Section 202 of UMRA requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). We have conducted analyses of the rule, and have determined that the rule is consistent with the principles set forth in the Executive Order and in these statutes.

The interim final rule is not a significant regulatory action as defined by the Executive Order. This regulatory action is also not a major rule under the Congressional Review Act. However, the Regulatory Flexibility Analysis concludes that the rule may have a significant impact on a substantial number of small entities. The Unfunded Mandates Reform Act does not require us to prepare a statement of costs and benefits for the interim final rule because the rule is not expected to result in any one-year expenditure that would exceed $100 million adjusted for inflation. The current inflation-adjusted statutory threshold is about $110 million.

A. Objectives and Basis for the Action

Incomplete data preclude us from developing a quantitative estimate of the economic benefits or costs of this rule. However, we believe that the rule is necessary to minimize the risk of establishing and spreading the monkeypox virus. The rule formalizes an administrative ban on trade, transport, and import of certain animals and sets forth a process to obtain exemptions. In particular, the interim final rule prohibits the capture, offer to capture, transport, offer to transport, sale, barter, or exchange, offer to sell, barter, or exchange, distribution, offer to distribute, and release into the environment of prairie dogs and other specific animals, and it prohibits importation of African rodents. The interim final rule supersedes the June 11, 2003, order and allows permits for exemptions in cases that pose little risk of establishing or spreading the monkeypox virus.

B. The Nature of the Impacts

This rule has several impacts. It continues and clarifies the prohibition of the import of African rodents, as well as the capture, offer to capture,

transport, offer to transport, sale, barter, or exchange, offer to sell, barter, or exchange, distribution, offer to distribute, and release into the environment of prairie dogs and other specific animals, but allows parties to apply for exemptions in instances that would not pose a risk of establishing or spreading the monkeypox virus. Thus, importers of small mammals would have to find animals other than African rodents to satisfy market demands for unusual pets. Firms that supply prairie dogs and other listed animals as pets would be unable to do so and would have to switch to different animals. In addition, some animals may be destroyed if it is determined that such action is necessary to prevent the further spread of monkeypox in the United States. While we have not generated quantitative estimates of the magnitude of these effects, available evidence suggests that they are relatively small.

We invite comment on the economic analysis in support of this interim final rule.

C. Need for the Rule

A new infectious disease, if uncontrolled, can have large adverse economic effects. It does so because a single infection can lead to a few new cases, which in turn can lead to many others. Through this multiplier effect, a single uncontrolled case of a new disease may trigger an epidemic. For example, West Nile virus, a mosquito-borne zoonotic disease originally from Africa, sickened more than four thousand Americans and killed 284 in 2002 alone, although it was not recorded in the United States before 1999 (Ref. 24). West Nile virus has also affected populations of many indigenous species of birds and mammals. Existing economic incentives to control such risks are generally inadequate because the costs of such risks to third parties are not borne by the owners of infected animals.

Notwithstanding the inadequacy of incentives to control risks associated with monkeypox virus, trade in some of the animal species affected by this rule fell before any announced government action. An on-line trading service, *exoticpets.com*, listed on June 13, 2003, all of the advertisements to sell prairie dogs that had been posted since May 15, 2003. These data, though they represent advertised prices and not the actual prices of completed transactions at a single website, suggest that the market responded very quickly to rumors linking prairie dogs to the monkeypox outbreak. Five announcements to sell or to buy prairie dogs as pets appeared in the 7 days beginning May 15, 2003. Three more advertisements appeared in the 7 days starting May 22, 2003, and ending May 28, 2003, with the very last announcement posted on May 27, 2003.

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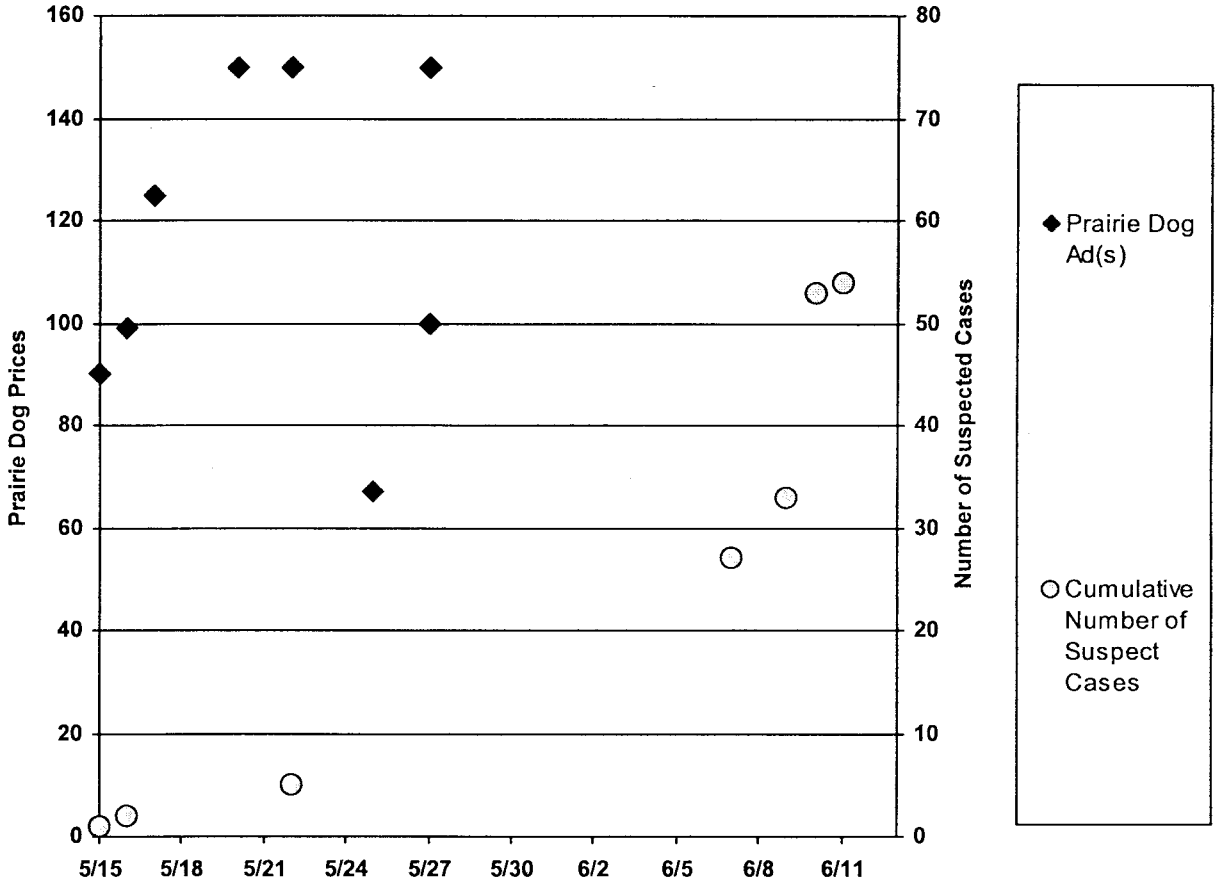
Figure 1

Advertised Prices for Prairie Dogs and

Suspected Cases of Monkeypox in the United States



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The prairie dog trading market then seemed to vanish, even before the earliest report linking prairie dogs to the outbreak of monkeypox. On June 6, 2003, one day before any announcement by CDC, Wisconsin health officials banned the sale, importation, and display of prairie dogs because of human disease outbreak associated with animal-borne transmission (Ref. 25). Three notices mentioning the illness and the restrictions on trade appear at exoticpets.com in lieu of advertisements on June 8 and 9, 2003. No subsequent announcements or advertisements appear on the website. These data, summarized in Figure 1, suggest that the market reactions to risks of contaminated pets may have already curtailed most, if not all, of the retail trade.[1] Statistical testing of the prairie dog advertisement appearance rates before and after the CDC announcement shows a 99.3 percent chance that there was a real change in the daily advertisement appearance rate (i.e., the rate difference is very likely not the result of mere chance).[2] According to the prices listed in classified advertisements posted at exoticpets.com, neither the markets for other pets, such as rabbits, nor the frequency of such advertisements, have been affected.

While the market has responded quickly to the outbreak, it is also important to note that the market enabled the outbreak to occur in the first place. With less vigilant public health surveillance, or with private parties that were less cooperative or less responsible, infected prairie dogs could have been distributed more broadly in commerce, posing greater disease risks. In addition, infected prairie dogs might have been released into the wild, posing large risks to native mammals and, through them, to humans. This rule would minimize the risks that such events could occur by requiring permits if individuals capture, transport, sell, barter, exchange, distribute, or release animals that have been implicated in the monkeypox outbreak.

[1] Figure 1 excludes one advertisement because it was a solicitation to buy without reference to price.

[2] From May 15, 2003, through May 28, 2003 (14 days inclusive), there were 8 days when advertisements for prairie dogs appeared at the web site for *exoticpets.com*. Thus, on about 57 percent (8/14=0.571) of the days, prairie dog advertisements appeared. From May 29, 2003 through June 6, 2003 (9 days inclusive), there were no (zero) days when prairie dog advertisements appeared. According to Fisher's Exact Test, the probability that these two statistics came from the same distribution is 0.0072. In other words, we are 99.3 percent certain that there was a change in the daily appearance of prairie dog advertisements between these two time periods.

D. Baseline

Economic analysis of a regulatory action requires as a first step the identification of a baseline, a depiction of the world in the absence of any action, from which to calculate the effects of the regulations. The baseline for this rule is complicated by at least two issues. First, as noted, news of the epidemic has curtailed trade in advance of Federal action. Buyers and sellers do not want to trade animals that may be infected with a virus that can make people sick. To distinguish between the effects of our actions to ban trade in certain animals and the effects of monkeypox on such trade, this analysis uses as a baseline the current state of affairs; that is, it recognizes that the outbreak is ongoing and that the market has responded.

An administrative order issued by FDA and CDC on June 11, 2003, and intended to manage the same risks as this interim final rule also complicates efforts to identify a baseline. We propose to use two baselines to provide full information about the effects of our actions. First, we assume that there is no administrative order, and second, we assume that the baseline includes the June 11, 2003, order.

With the second baseline there are no costs and no benefits because the interim rule formalizes and clarifies the June 11, 2003, order, with the important exception of a new procedure for Federal permits allowing people to import, capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, offer to distribute, and release into the environment prairie dogs and other specific animals when it otherwise would be prohibited. Relative to the outright prohibition in the June 11, 2003, order, permits would lower costs to parties seeking to import, capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, offer to distribute, and release into the environment listed animals. For example, zoos and related animal facilities, prairie dog relocation services, and research labs may request permission to import, capture, transport, or sell listed animals, and, if permission is granted, they may continue such activities that would otherwise be prohibited by the June 11, 2003, order. Generating quantitative estimates of the cost savings from such permits is not possible because of the uncertainty associated with how and when such permits would be granted. While these exemptions may in principle pose some risks, we believe that these are negligible because permits would be granted only in instances where prohibited activities pose minimal risk of establishing or spreading the monkeypox virus.

E. Alternatives

Sound economic analysis requires an assessment of reasonable alternatives. The key alternative, and one on which we solicit comment, is a ''sunset'' provision ending the domestic restrictions by January, 2004, unless we made a determination that the ban was necessary to protect health and safety. The economic advantage of this alternative relative to this interim final rule may be the elimination of permitting costs for capturing, transporting, selling, bartering, exchanging, distributing, or releasing an animal that has been only a conduit and not a source of infection, as well as allowing for resumption of a prairie dog market as existed before the disease. It may, however, provide for later capture, transport, sale, barter, exchange, distribution, or release of an animal that may carry other diseases.

We also considered whether it would be possible to devise a regulatory program that would allow for testing and certification of animals, whereby animals that had been certified to be free of the monkeypox virus would not be subject to the rule's prohibitions. We did not pursue this alternative because studies are being conducted to determine the incubation period in various animal species and the manner in which the virus may be transmitted. In other words, scientific knowledge about monkeypox is still evolving, so it may be unlikely that a quick, reliable testing method, particularly when incubation periods and the extent to which animals may be asymptomatic carriers of the monkeypox virus are unknown, will be developed in the immediate future.

Assessment of other alternatives is limited because the interim final rule would allow exceptions to the prohibited activities provided that parties have Federal permits. The specific criteria for these exceptions have not been determined, but can be expected to include those activities that pose no risk of establishing or spreading the monkeypox virus.

F. Benefits

A recent report indicates that 71 cases of monkeypox in humans have been reported in Illinois, Indiana, Kansas, Ohio, Missouri, and Wisconsin (Ref. 4). Detailed clinical information was available for 30 cases reported in Illinois and Wisconsin. Among these, the

earliest reported onset of illness was on May 15, 2003. For the majority of patients (22 (73 percent)), a febrile illness has either preceded or accompanied the onset of a papular rash; respiratory symptoms (16 (64 percent)), lymphadenopathy (14 (47 percent)), and sore throat (10 (33 percent)) also were prominent signs and symptoms. The rash typically progressed through stages of vesiculation, pustulation, umbilication, and encrustation. Early lesions became ulcerated in some patients. Rash distribution and lesions have occurred on the head, trunk, and extremities; many patients had initial and satellite lesions on palms, soles, and extremities. Rashes were generalized in some patients. No fatalities have yet been reported in the United States although the case fatality rate in remote and medically underserved areas of Africa is between 1 percent and 10 percent (Ref. 26).

We lack data to estimate the value in monetary terms that people might assign to specific reductions in the risk of monkeypox infections.

This rule would also reduce the risk to public health that would result if monkeypox became endemic in the United States. (An ''endemic'' disease is one that is confined to or characteristic of a particular locality.) The potential risks to humans from exposure to monkeypox established among wild animal populations would be potentially large if the disease were not controlled. Inadvertent contact between infected pets and wild animals could spread monkeypox into established wild animal populations, causing widespread disruption to ecosystems and potentially exposing large numbers of people to a new infectious agent. In Africa, serologic evidence of monkeypox infection has been found in a wide variety of nonhuman primates, rodents, and squirrels; monkeypox virus has been isolated from a species of squirrel in Zaire, but the role of any particular species as a reservoir has not been established. Some species of primates, rodents, and lagomorphs (such as rabbits) are known to be susceptible. Although no infections have been previously reported in dogs or cats, these species may also be susceptible to monkeypox (Ref. 27). Thus, there is significant risk that common, native mammalian species, such as squirrels and rabbits, could become reservoirs of this new disease if it were released into the environment. CDC has reported that a pet rabbit treated at a veterinary clinic that also had an infected prairie dog became ill and died. The rabbit died spontaneously, but the owner of that rabbit became ill with a disease compatible with the clinical description of monkeypox; however, the rabbit owner was not a laboratory-confirmed case (Ref. 28). This rule would reduce the risk of the monkeypox virus spreading among both species known to carry it, as well as the possibility of it spreading through wild and pet species currently not known to carry it.

Because this interim final rule would be expected to reduce the frequency of monkeypox outbreaks, there would also be a commensurate reduction in outbreak traceback efforts by the Federal Government, as well as possible state and local government efforts. The costs of these traceback efforts would vary depending on the size of the outbreak.

G. Costs

The costs of this interim rule are the lost value to consumers and producers associated with not being able to import, capture, transport, sell, barter, exchange, distribute, or release prairie dogs and certain African rodents. We believe that the costs are not likely to be high, because the monkeypox outbreak has already sharply curtailed the trade in prairie dogs, as described above. This curtailment occurred prior to Federal regulatory action. Unfortunately, we lack data on the magnitude of trade that has occurred since the outbreak was publicized in June, and so we present instead data from before the outbreak. These data overstate the costs of the rule insofar as they ignore the reduction in volume of trade likely already to have resulted from the outbreak itself. Indeed, if the data shown in Figure 1 are representative of broader and long-lasting market conditions, then the interim final rule's prohibition has no impact on sales of prairie dogs as pets because trade has vanished as a result of the outbreak. If the trade in prairie dogs would otherwise have resumed in the absence of this order, then costs would occur. Although we do not have trade data for the other listed animals during the same periods, we surmise that similar reductions in trade of these animals has also occurred.

Generally, the trade in prairie dogs falls into several categories. In terms of volume, the largest category with the greatest number of animals traded involves the market for pets. There are currently about 10 to 15 million prairie dogs in the United States (Ref. 29). In 2001, 30,000 prairie dogs were sold for pets (Ref. 30). About 15,000 of the 30,000 sold were captured in Texas by registered dealers (Ref. 31). Some 15,000 are exported annually (Ref. 29). Sales over the last few years have remained relatively constant, with sales and prices slightly down since Japan, the largest foreign market, banned importation of prairie dogs on March 1, 2003.

Typically, pet stores purchase prairie dogs from dealers for $50 to $60 each, and re-sell to pet owners for about $150 each (Ref. 32). If average retail prices of prairie dogs were $150 prior to the monkeypox outbreak, annual prairie dog sales in the pet market would appear to be $4.5 million, although this estimate must be seen as very approximate because it is based on a market survey.

A ban on the capture, transport, sale, barter, exchange, distribution, or release of prairie dogs would have a noticeable effect on prairie dog trappers who supply the pet market, if it occurred in the absence of an outbreak. Prairie dog trappers would not be expected to incur serious economic effects this year because the peak of the prairie dog sales season (April through June 1) has passed (Ref. 32). A permanent prohibition on transportation of prairie dogs, however, could have a very serious effect. Suppliers of pet supplies and equipment intended for prairie dogs and the other small, listed rodents may also be affected by this action, but we believe such effects will be small because this equipment may also be suitable for some other mammalian pets, such as hamsters or guinea pigs.

A variety of relocation activities involving prairie dogs are undertaken in part because the Federal Fish and Wildlife Service has assigned at least one prairie dog species a status of ''warranted'' under the Endangered Species Act. Many of these activities already require permits from State agencies (Ref. 33). We lack information on the scope or magnitude of such activities or how they might be affected by the June 11, 2003, order or by this rule, but would expect some of them to qualify for exemptions.

Another category of trade affected by this rule is zoos, which routinely trade animals for a variety of purposes, although we lack information about the extent of trade in prairie dogs or African rodents. The American Zoo and Aquarium Association (AZA) is the largest zoo and aquarium organization in the world. The AZA's mission is to establish, uphold, and raise the highest zoological and aquarium industry standards. It has accredited over 200 organizations, of which about 170 are zoos in the United States. As of June 6, 2003, about 79 zoos in the United States held 758 prairie dogs according to a survey of data at the website for the International Species Information

System.[3] We recognize that AZA has an accreditation process for institutions such as zoological parks, and a separate certification process for related facilities, such as wildlife refuges, conservation research facilities, survival or rehabilitation centers, breeding farms, and educational organizations (Ref. 34). AZA accreditation requires that institutions follow the guidelines of the American Association of Zoo Veterinarians regarding medical programs and zoo hospitals.

Data on the sale and imports of the other rodents that would be prohibited with this interim rule are limited. Data from the U.S. International Trade Commission show that about $38,000 worth of live African animals that could reasonably be expected to include these specific rodents were imported into the United States in 2002. Information from the Fish and Wildlife Service indicates that, in 2002, nearly 8,000 African rodents were imported into the United States. We do not have information that confirms that these separate database measurements relate to the same animals, but suggest that African rodent imports appear to be relatively small. Retail sales of such animals as pets would be expected to be somewhat higher than the value shown above due to retailer price markups. Further, we are unable to confidently estimate the number of other listed animals (except for prairie dogs) from either domestic or imported origin that are sold each year as pets in the United States. A recent American Pet Products Manufacturers Association survey does not list any of the animals listed in this interim final rule in its section on small animals (Ref. 35). Accordingly, we conclude that the number of such animals is relatively small.

The interim final rule would allow for persons wishing to seek exemptions from the rule's prohibitions by requesting written permission from FDA or CDC. We have tentatively estimated that about 60 such requests would be made annually to FDA. We would expect these requests to be made by animal relocation specialists or others involved in biological research or conservation efforts. These requests are estimated to take 2 hours to complete. We cannot confidently estimate an average wage for those seeking permission to transport listed animals, but at a total annual burden of about 120 hours, we would expect the total cost burden to range from $3,000 to $6,000. FDA resource costs to process and respond to each request are estimated to total about 6 hours distributed across various staff levels. We estimate that the average pay level of these staff positions at about $37 per hour. The administrative effort to process these requests would result in about $13,300 (60 requests x 6 hours per request x $37 per hour = $13,320) in costs to FDA.

Similar costs would be incurred by those that would request written permission from CDC to import a listed animal. We estimate that CDC would receive about 12 requests annually, resulting in a cost burden of about $500 to these individuals. CDC would also be expected to incur administrative costs to process and respond to these requests that would be similar to those incurred by FDA. We estimate that those costs may total to about $3,000.

This interim final rule may result in the quarantine and/or destruction of an unknown number of listed animals if we determine that such action is necessary to prevent the further spread of monkeypox in the United States. We do not have an estimate of the marginal cost to quarantine, destroy or dispose of an individual animal. Further, the uncertainty surrounding the total number of animals that would be affected by this provision of the rule makes it difficult to estimate a total cost for such circumstances. We believe that facilities for such purposes are available and would not be expected to impose substantial costs to the Government.

1. Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires agencies to examine regulatory alternatives for small entities if that rule may have a significant impact on a substantial number of small entities.

a. *Objective of the rule.* The implementation of this interim final rule would ensure the safety of the human and animal populations in the United States from the monkeypox virus. The objective of this interim final rule is to reduce the risk to public health from the spread of the monkeypox virus throughout the United States.

b. *Small entity definitions and impacts.* A regulatory flexibility analysis (RFA) is required to estimate the number of small entities to which the interim final rule would apply. This rule would affect importers of African rodents, trappers and distributors of prairie dogs, other small animal distributors, as well as retail pet stores.

The Small Business Administration (SBA) sets criteria by which it qualifies businesses as small entities. The SBA limit for small pet and pet supply stores is $6 million in revenues. Census Bureau data shows that about 6,500 retail pet store companies operate about 8,300 establishments in the United States. A substantial number of these firms (about 94%) have a single establishment with average annual revenues of about $356,000, thereby qualifying them as small businesses. We believe it is unlikely that the total sales of all of the listed animals would represent a significant portion of total pet store sales. However, due to the lack of data on total sales of these animals, as well as the possibility that some pet stores may specialize in the small animals that are listed in this rule, we cannot rule out the possibility that the rule may have a significant impact on a substantial number of these small entities.

The SBA limit for small business qualification for trappers is $3.5 million or less in revenues. Prairie dog trappers, as described previously, would surely qualify as small businesses under this definition (Ref. 32). For at least some of these trappers, the loss of their profits from the effects of this rule would likely represent a significant impact on their businesses.

The SBA limit for all small business wholesale activities is set at 100 employees. We lack the data to determine the extent to which wholesalers and distributors of all small animals listed in this interim final rule (including those that import animals and those that handle domestic animals) would be affected by this rule. That being the case, we allow for the possibility that a substantial number of those that are affected may be small entities, and in some instances may incur significant impacts due to this rule.

We request public comment on the size and structure of those firms or persons involved in the trade of all animals listed in this interim final rule and the rule's effects on such firms and persons. The incompleteness of data, as described previously, precludes us from developing quantitative estimates of the costs of this rule for each type of small entity.

2. Analysis of Alternatives

As stated previously, one alternative is a ''sunset'' provision ending the prohibitions on prairie dogs or other animals at some point in the future,

[3] The International Species Information System (ISIS) maintains a computer-based information system for wild animal species held in captivity. The database contains information on ten thousand species held in 586 institutions in 72 countries on 6 continents. Roughly 250 of these institutions are professionally managed United States zoos, most of which have been accredited by AZA. The ISIS Web site allows web-based searches by species and is updated weekly (see International Species Information System (ISIS); conversation with Mr. Nate Flesness, ISIS director; ISIS Web site information (*www.ISIS.org*)). ISIS is located in Apple Valley, Minnesota.

unless we determine that the ban was necessary to protect health and safety. The economic advantage of this alternative relative to this interim final rule may be the elimination of permitting costs for transport in domestic animals in the case that monkeypox has not become endemic. It may, again, provide for later capture, transport, sale, barter, exchange, distribution, or release of an animal that may carry other diseases. This alternative was not accepted because of the uncertainty in predicting when a ban would no longer be necessary.

A second alternative would have been to allow the continued capture, transport, sale, barter, exchange, distribution, or release of the listed animals, effectively doing nothing to reduce the risk of further spread of monkeypox. Although the market for at least prairie dogs was apparently greatly reduced due to public knowledge of the monkeypox issue and seasonal variation in the prairie dog market, this option would have allowed those few in the market that dismissed the severity of the problem to continue to pose a risk that monkeypox would become endemic to domestic pets and wildlife and further affect human health. For this reason it was determined to be not acceptable.

A third alternative would have been to exempt small businesses from this interim final rule. However, because about 94 percent of pet stores and probably a large portion of small animal trappers and wholesalers/distributors are small businesses, this option would have compromised the rule's ability to reduce the risk of establishing or spreading the monkeypox virus in the United States.

VII. Paperwork Reduction Act of 1995

This interim final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). A description of these provisions is given below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Both FDA and CDC have requested emergency processing of this proposed collection of information under section 3507(j) of the PRA (44 U.S.C. 3507(j) and 5 CFR 1320.13). Such emergency processing is necessary in order to respond immediately to the monkeypox outbreak. This interim final rule, at 21 CFR 1240.63(a)(2)(ii)(A) and (B) and 42 CFR 71.56(a)(2)(i) and (ii), contains information collection requirements. In compliance with the PRA (44 U.S.C. 3507(d)), we have submitted a copy of the information collection provisions of this interim final rule to OMB for review.

The information collections in this interim final rule have been approved under OMB control number 0910–0519 (for 21 CFR 1240.63) and OMB control number 0920–0615 (for 42 CFR 71.56). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it contains a currently valid OMB control number.

Title: Control of Communicable Diseases; Requests for Exemptions from the Restrictions on African Rodents, Prairie Dogs, and Certain Other Animals.

Description: Monkeypox is a rare zoonotic viral disease that occurs primarily in the rain forest countries of central and west Africa. Studies have shown that infected rodents are capable of transmitting the monkeypox virus to humans. Limited person-to-person spread of infection has been reported in disease-endemic areas in Africa. It is likely the virus is entering the United States by way of rodent species imported from Africa. Further transmission of the virus likely occurred in the storage and handling of these rodents during sale and distribution within the United States. This resulted in secondary transmission to domestic prairie dogs in this country housed in the same animal-holding facility or pet shop. Introduction of exotic species, such as African rodents, poses a serious public health threat because of the potential of human monkeypox virus infection. Transport, sale, or any other type of distribution, including release into the environment, of certain species of rodents poses a serious public health threat because of the potential for further spread of the monkeypox virus to other animal species and to humans. To prevent the establishment and spread of the monkeypox virus in the United States, we are prohibiting the capture, offer to capture, transport, offer to transport, sale, barter, or exchange, offer to sell, barter, or exchange, distribution, offer to distribute, or release into the environment of prairie dogs and certain rodents and any other animal so prohibited by order of the Commissioner of Food and Drugs. We are also prohibiting the importation of all rodents that were obtained, directly or indirectly, from Africa, or whose native habitat is Africa, or any other animal whose importation the Director of CDC has prohibited by order. The rule provides for exemptions from these prohibitions and discusses our authority to issue orders causing an animal to be quarantined, re-exported, or destroyed. The information collection burden is associated with the process for seeking an exemption.

Description of Respondents: Persons who capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, offer to distribute, import, offer to import, or release into the environment certain rodents.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

CFR Section	No. of Respondents	Annual Frequency per Response	Total No. of Responses	Hours per Response	Total Hours
21 CFR 1240.63(a)(2)(ii)(A) and (B)	60	1	60	2	120
42 CFR 71.56(a)(2)(i) and (ii)	12	1	12	0.5–1.0	10
				Total	130

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimates are based on our experience to date with the June 11, 2003, order and on similar requests under FDA regulations. To estimate the number of respondents, we examined the number of requests and inquiries we have received since the June 11, 2003, order. Both FDA and CDC have received fewer than 10 requests, and most requests involved requests to move an animal from one location to another. (FDA also has received many inquiries.)

As we cannot predict how the monkeypox outbreak will be resolved, we will tentatively estimate that there will be 60 respondents for FDA's provisions and 10 respondents for CDC's provisions. Furthermore, based on FDA's experience with submissions seeking exemptions or waivers, we will tentatively estimate that each respondent will need 2 hours to complete its request for an exemption. Therefore, the total reporting burden under 21 CFR 1240.63(a)(2)(ii)(A) and (B) will be 120 hours (60 respondents x 2 hours per response = 120 hours).

CDC's estimates for the burden of its data collection are based on its experience with the importation of non-human primates. CDC estimates that there will be 12 respondents annually for this data collection. Respondents will include individuals, businesses, and organizations. Although CDC estimates that most respondents will submit only one request per year, CDC feels that organizations may submit 2 requests per year. Individuals and businesses submitting requests will need 30 minutes to prepare the request. Organizations will need 1 hour to prepare an initial request and 10 minutes for subsequent requests. The total annualized burden under 42 CFR 71.56(a)(2)(i) and (ii) will be 10 hours.

The requirements contained in 21 CFR 1240.63(c) and 42 CFR 71.56(c) are not subject to review by OMB because they are exempted under 5 CFR § 1320(a)(4), which exempts ''administrative actions * * * involving an agency against specific individuals or entities.''

VIII. Federalism

We have analyzed this interim final rule in accordance with the principles set forth in Executive Order 13132 and have determined that the rule has federalism implications. Federal restrictions on the capture, offering to capture, transport, offering to transport, sale, barter, or exchange, or offering to sell, barter, or exchange, distribution, offering to distribute, or release into the environment of certain rodents and prairie dogs are both necessary and appropriate to prevent the establishment and spread of monkeypox virus in the United States. In accordance with section 361(e) of the PHS act (42 U.S.C. 264(e)), nothing in this interim final rule supersedes any provisions of State or local law except to the extent that such a provision conflicts with this interim final rule. For example, the interim final rule does not prevent a State from taking stronger measures to deal with infected or possibly infected animals or to cover additional species. Furthermore, while some States have issued orders with restrictions that cover fewer animal species, those State requirements do not conflict with the interim final rule and would also not be superseded. However, in accordance with section 361(e) of the PHS act, any State or local law that would permit any activity prohibited under this interim final rule would be in conflict with this rule and, therefore, would be superseded.

We note that we have been in direct contact with many States regarding the June 11, 2003, order and efforts to prevent the spread of monkeypox. We believe that the public health requires us to give this regulation immediate effect. Through this interim final rule, and under to section 4(e) of Executive Order 13132, we are providing all affected State, local, and tribal officials notice and opportunity to participate in this rulemaking.

IX. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

X. References

The following references have been placed on display in the Division of Dockets Management and may be seen by interestes persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Khodakevich, L., Jezek, Z. and Messinger, D., ''Monkeypox Virus: Ecology and Public Health Significance,'' *Bulletin of the World Health Organization*, 66: 747–752, 1988. This reference identifies several species of squirrels as playing a major role as a reservoir for the monkeypox virus.

2. Centers for Disease Control and Prevention, ''Updated Interim Case Definition for Human Case of Monkeypox,'' dated July 2, 2003 (available through *www.cdc.gov/ncidod/monkeypox*). FDA has verified the Web site addresses in this document, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register.**

3. Centers for Disease Control and Prevention, ''Questions and Answers About Monkeypox,'' dated July 7, 2003 (available through www.cdc.gov/ncidod/monkeypox).

4. Centers for Disease Control and Prevention, ''Update: Multistate Outbreak of Monkeypox—Illinois, Indiana, Kansas, Missouri, Ohio, and Wisconsin, 2003,'' *Morbidity and Mortality Weekly Report*, 52: 642–646 (July 11, 2003)

5. State of Colorado, Wildlife Commission, ''Emergency Regulation,'' dated July 10, 2003.

6. State of Illinois, ''Executive Order in Response to Orthopox Outbreak,'' dated June 7, 2003.

7. State of Indiana, Board of Animal Health, Emergency Rule, dated June 9, 2003.

8. State of Michigan, Department of Community Health, ''Order Finding Imminent Danger to the Public Health and Requiring Corrective Action,'' dated June 13, 2003, and later amended on June 27, 2003.

9. State of North Dakota, State Board of Animal Health, ''In the matter of: Monkeypox in Prairie Dogs and Gambian Giant pouched Rats,'' Order No. 2003–04, dated June 11, 2003.

10. State of Wisconsin, Department of Agriculture, Trade, and Consumer Protection, ''Emergency Rule,'' dated June 9, 2003.

11. State of Wisconsin, Department of Health and Family Services, ''Emergency Order - June 12, 2003,'' dated June 12, 2003.

12. Order dated June 11, 2003, signed by Julie Louise Gerberding, Director, Centers for Disease Control and Prevention, and Mark B. McClellan, Commissioner of Food and Drugs, titled ''Joint Order of the Centers for Disease Control and Prevention and the Food and Drug Administration, Department of Health and Human Services.≥

13. 68 FR 36566, June 18, 2003.

14. Centers for Disease Control and Prevention, ''Update: Multistate Outbreak of Monkeypox— Illinois, Indiana, Kansas, Missouri, Ohio, and Wisconsin, 2003,'' *Morbidity and Mortality Weekly Report*, 52: 616–618, July 4, 2003, (describing how animal laboratory testing demonstrated that a Gambian giant pouched rat, three dormice, and two rope squirrels from an April 9, 2003, shipment of animals from Ghana were infected with the monkeypox virus).

15. North Carolina Department of Health and Human Services, ''State Health Official Reminds Public Not to Release Prairie Dogs Into the Wild,'' dated June 19, 2003.

16. Colorado Division of Wildlife, ''Wildlife Report: Black-Footed Ferrets Back in Colorado,'' dated November 19, 2001 (available at *www.dnr.state.co.us/cdr__news/wildlife/2001111985112.htm*).

17. Food and Drug Administration and Centers for Disease Control and Prevention, ''Wild-to-Wild Translocation or Transportation of Prairie Dogs'' (undated).

18. Centers for Disease Control and Prevention, ''Interim Guidance to State and Local Governments for the Removal of State- and Locally Imposed Quarantine Orders and the Euthanasia of Animals Affected by the Monkeypox Outbreak,'' dated July 1, 2003.

19. Centers for Disease Control and Prevention, ''Questions and Answers: Quarantine and Euthanasia of Animals Affected by the Monkeypox Outbreak,'' dated July 10, 2003.

20. Fish and Wildlife Service, ''Notice to the Wildlife Import/Export Community,'' dated June 11, 2003 (describing import and export prohibitions on certain rodents, including any rodents from Africa, whether alive or dead, for any purpose).

21. Peeters, M., et al., ''Risk to Human Health from a Plethora of Simian

Immunodeficiency Viruses in Primate Bushmeat,'' *Emerging Infectious Diseases*, 8: 451–457 (May, 2002) (showing that humans who hunt and handle bushmeat are exposed to many viruses).

22. Downie, A.W., and Dumbell, K. R., ''Survey of Variola Virus in Dried Exudate and Crusts from Smallpox Patients,'' *Lancet*, 1: 550–3, 1947.

23. Woodruffe, G. M., ''The Heat Inactivation of Vaccinia Virus,'' *Virology*, 10: 379–82 (1960).

24. *http://www.cdc.gov/od/oc/media/wncount.htm*.

25. Wisconsin Division of Public Health, Press Release: ''6/6/03, Wisconsin Division of Public Health Bans Sale of Prairie Dogs.≥

26. Centers for Disease Control and Prevention, ''Multistate Outbreak of Monkeypox - Illinois, Indiana and Wisconsin,'' *Morbidity and Mortality Weekly Report*, 52: 537–540, June 13, 2003.

27. Centers for Disease Control and Prevention, ''Monkypox Infections in Animals: Updated Interim Guidance for Veterinarians,'' dated July 22, 2003 (available through *http://www.cdc.gov/ncidod/monkeypox/pdf/mpoxanimalguidance.pdf*).

28. Centers for Disease Control and Prevention, ''CDC Telebriefing Transcript: Monkeypox Investigation,'' dated June 7, 2003 (available through *http://www.cdc.gov/od/oc/media/transcripts/t030607.htm*).

29. Data Source: ''Pet Your Prairie Dog,'' Wall Street Journal, posted April 24, 2003. This article can be found at *http://www.twincities.com/mld/twincities/living/5698532.htm*.

30. Data Source: *http://www.prairiedog.info/prairie__dog__reintroduction.htm*.

31. Robert E Pierre, ''Newfound Scrutiny for a Pest to Some, a Beloved Pet to Others,'' *Washington Post*, June 11, 2003. Page A–03.

32. Phone conversation with prairie dog trapper in Lubbock, Texas, on June 16, 2003.

33. U.S. Fish and Wildlife Service, Mountain-Prairie Region, ''Black Tailed Prairie Dog-The Black-tailed Prairie Dog Conservation Assessment and Strategy,'' dated September 9, 1999 (available through *http://www.r6.fws.gov/btprairiedog/conassstrat.htm#strategy*).

34. *http://www.aza.org/Accreditation/#acc*.

35. 2003 2004 QPPMA National Pet Owners Survey, American Pet Product

36. Axtman, K., ''The Prairie Dog: Pest or Pet?,'' *The Christian Science Monitor*, August 13, 2002, taken from the web on June 12, 2003, from *http://www.csmonitor.com/2002/0813/p03s01–usgn.html*.

37. Exotic Pets.com, taken from *http://www.exoticpets.com/Show__Ads.asp?petid=16* on June 12, 2003.

38. Hutin, Y. J. F., et al., ''Outbreak of Human Monkeypox, Democratic Republic of Congo, 1996–1997,'' *Emerging Infectious Diseases*, 7:434–438 (May through June, 2001).

List of Subjects

21 CFR Part 16

Administrative practice and procedure.

21 CFR Part 1240

Communicable diseases, Public health, Travel restrictions, Water supply.

42 CFR Part 71

Airports, Animals, Communicable diseases, Harbors, Imports, Pesticides and pests, Public health, Quarantine, Reporting and recordkeeping requirements.

■ Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs and to the Director, Centers for Disease Control and Prevention, 21 CFR parts 16 and 1240 and 42 CFR part 71 are amended as follows:

21 CFR CHAPTER I

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

■ 1. The authority citation for 21 CFR Part 16 continues to read as follows:

Authority: 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201–262, 263b, 364.

■ 2. Section 16.1 is amended in paragraph (b)(2) by numerically adding an entry for § 1240.63(c)(3) to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(2) * * *

§ 1240.63(c)(3), relating to a written order to cause an animal to be placed in quarantine or to cause an animal to be destroyed.

* * * * *

PART 1240—CONTROL OF COMMUNICABLE DISEASES

■ 3. The authority citation for 21 CFR part 1240 continues to read as follows:

Authority: 42 U.S.C. 216, 243, 264, 271.

■ 4. Section 1240.63 is added to subpart D to read as follows:

§ 1240.63 African rodents and other animals that may carry the monkeypox virus.

(a) *What Actions Are Prohibited*? *What Animals Are Affected*?

(1) Except as provided in paragraph (a)(2) of this section,

(i) You must not capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, offer to distribute, or release into the environment, any of the following animals, whether dead or alive:

(A) Prairie dogs (*Cynomys* sp.),

(B) African Tree squirrels (*Heliosciurus* sp.),

(C) Rope squirrels (*Funisciurus* sp.),

(D) African Dormice (*Graphiurus* sp.),

(E) Gambian giant pouched rats (*Cricetomys* sp.),

(F) Brush-tailed porcupines (*Atherurus* sp.),

(G) Striped mice (*Hybomys* sp.), or

(H) Any other animal so prohibited by order of the Commissioner of Food and Drugs because of that animal's potential to transmit the monkeypox virus; and

(ii) You must not prevent, or attempt to prevent, the Food and Drug Administration (FDA) from causing an animal to be quarantined or destroyed under a written order for the animal's quarantine or destruction.

(2) The prohibitions in paragraph (a)(1) of this section do not apply if you:

(i) Transport an animal listed in paragraph (a)(1) of this section, or covered by an order by the Commissioner of Food and Drugs, to veterinarians or animal control officials for veterinary care, quarantine, or destruction purposes; or

(ii) Have written permission from FDA to capture, offer to capture, transport, offer to transport, sell, barter, or exchange, offer to sell, barter, or exchange, distribute, offer to distribute, and/or release into the environment an animal listed in paragraph (a)(1) of this section, or covered by an order by the Commissioner of Food and Drugs. You may not seek written permission to sell, barter, or exchange, or offer to sell, barter, or exchange, as a pet, an animal listed in paragraph (a)(1) of this section or covered by an order by the Commissioner of Food and Drugs.

(A) To obtain such written permission from FDA, you must send a written request to the Division of Compliance (HFV–230), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, Attn: Listed Animal Permit Official. You may also fax your request to the Division of Compliance (using the same address in the previous sentence) at 301–827–1498.

(B) Your request must state the reasons why you need an exemption, describe the animals involved, describe the number of animals involved, describe how the animals will be transported (including carrying containers or cages, precautions for handlers, types of vehicles used, and other procedures to minimize exposure of animals and precautions to prevent animals from escaping into the environment), describe any holding facilities, quarantine procedures, and/or veterinarian evaluation involved in the animals' movement, and explain why an

exemption will not result in the spread of monkeypox within the United States.

(C) We (FDA) will respond, in writing, to all requests, and we also may impose conditions in granting an exemption.

(b) *What Actions Can FDA Take*?

(1) To prevent the monkeypox virus from spreading and becoming established in the United States, we may, in addition to any other authorities under this part:

(i) Issue an order causing an animal to be placed in quarantine,

(ii) Issue an order causing an animal to be destroyed, or

(iii) Take any other action necessary to prevent the spread of the monkeypox virus.

(2) Any order to cause an animal to be placed in quarantine or to cause an animal to be destroyed will be in writing.

(c) *How Do I Appeal an Order*?

(1) If you receive a written order to cause an animal to be placed in quarantine or to cause an animal to be destroyed, you may appeal that order. Your appeal must be in writing and be submitted to the Food and Drug Administration District Director whose office issued the order, and you must submit the appeal within two business days after you receive the order.

(2) As part of your appeal, you may request an informal hearing. Your appeal must include specific facts showing there is a genuine and substantial issue of fact that requires a hearing.

(3) If we grant your request for an informal hearing, we will follow the regulatory hearing requirements at in part 16, except that:

(i) The written order will serve as notice of opportunity for that hearing, for purposes of § 16.22(a) of this chapter;

(ii) The presiding officer will issue a decision rather than a report and a recommended decision. The presiding officer's decision constitutes final agency action.

42 CFR CHAPTER I

PART 71–FOREIGN QUARANTINE

■ 5. The authority citation for 42 CFR part 71 continues to read as follows:

Authority: Secs. 215 and 311 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 216, 243), secs. 361–369, PHS Act, as amended (42 U.S.C. 264–272).

■ 6. Section 71.56 is added to subpart F read as follows:

§ 71.56 African rodents and other animals that may carry the monkeypox virus.

(a) *What Actions Are Prohibited*? *What Animals Are Affected*?

(1) Except as provided in paragraphs (a)(2) and (a)(3) of this section,

(i) You must not import or attempt to import any rodents, whether dead or alive, that were obtained, directly or indirectly, from Africa, or whose native habitat is Africa, any products derived from such rodents, any other animal, whether dead or alive, whose importation the Director has prohibited by order, or any products derived from such animals; and

(ii) You must not prevent or attempt to prevent the Centers for Disease Control and Prevention (CDC) from causing an animal to be quarantined, re-exported, or destroyed under a written order.

(2) The prohibitions in paragraph (a)(1) of this section do not apply if you have written permission from CDC to import a rodent that was obtained, directly or indirectly, from Africa, or whose native habitat is Africa, or an animal whose importation the Director has prohibited by order.

(i) To obtain such written permission from CDC, you must send a written request to Division of Global Migration and Quarantine, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, GA 30333. You may also fax your request to the Division of Global Migration and Quarantine (using the same address in the previous sentence) at 404–498–1633.

(ii) Your request must state the reasons why you need an exemption, describe the animals involved, describe the number of animals involved, describe how the animals will be transported (including carrying containers or cages, precautions for handlers, types of vehicles used, and other procedures to minimize exposure of animals and precautions to prevent animals from escaping into the environment), describe any holding facilities, quarantine procedures, and/or veterinarian evaluation involved in the animals' movement, and explain why an exemption will not result in the spread of monkeypox within the United States. Your request must be limited to scientific, exhibition, or educational purposes.

(iii) We will respond in writing to all requests, and we also may impose conditions in granting an exemption. If we deny your request, you may appeal that denial. Your appeal must be in writing and be submitted to the CDC official whose office denied your request, and you must submit the appeal within two business days after you receive the denial. Your appeal must state the reasons for the appeal and show that there is a genuine and substantial issue of fact in dispute. We will issue a written response to the appeal, which shall constitute final agency action.

(3) The prohibitions in paragraph (a) of this section do not apply to products derived from rodents that were obtained, directly or indirectly, from Africa, or whose native habitat is Africa, or products derived from any other animal whose importation the Director has prohibited by order if such products have been properly processed to render them noninfectious so that they pose no risk of transmitting or carrying the monkeypox virus. Such products include, but are not limited to, fully taxidermied animals and completely finished trophies; and they may be imported without written permission from CDC.

(b) *What Actions Can CDC Take*?

(1) To prevent the monkeypox virus from spreading and becoming established in the United States, we may, in addition to any other authorities under this part:

(i) Issue an order causing an animal to be placed in quarantine,

(ii) Issue an order causing an animal to be re-exported,

(iii) Issue an order causing an animal to be destroyed, or

(iv) Take any other action necessary to prevent the spread of the monkeypox virus.

(2) Any order causing an animal to be quarantined, re-exported, or destroyed will be in writing.

(c) *How Do I Appeal an Order*? If you received a written order to quarantine or re-export an animal or to cause an animal to be destroyed, you may appeal that order. Your appeal must be in writing and be submitted to the CDC official whose office issued the order, and you must submit the appeal within 2 business days after you receive the order. Your appeal must state the reasons for the appeal and show that there is a genuine and substantial issue of fact in dispute. We will issue a written response to the appeal, which shall constitute final agency action.

Dated: October 6, 2003.

Tommy G. Thompson,

Secretary of Health and Human Services.

[FR Doc. 03–27557 Filed 11–3–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

28 CFR Part 81

[Docket No. CRM 100I; AG Order No. 2692–2003]

RIN 1105–AA65

Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act, as Amended

AGENCY: Department of Justice.

ACTION: Interim final rule.

SUMMARY: This Interim final rule finalizes a portion of a proposed rule published on May 26, 1999, 64 FR 28422, and fulfills the Attorney General's responsibilities under the child pornography reporting provisions of the Protection of Children from Sexual Predators Act of 1998, as amended. This Interim final rule requires the National Center for Missing and Exploited Children to forward the report of apparent child pornography to the law enforcement agencies designated in the 1999 proposed rule (the Federal Bureau of Investigation and the Bureau of Immigration and Customs Enforcement,[1] and also designates the United States Postal Inspection Service and the United States Secret Service as recipients of the report.

Other matters discussed in the 1999 proposed rule, such as the contents of the report, the means for making the report to Federal agencies, monitoring, and definitions, will be addressed at a later time through a subsequent final rule.

DATES: *Effective date:* This Interim final rule is effective December 4, 2003.

Comment date: Written comments must be submitted on or before January 5, 2004.

ADDRESSES: Please submit written comments to Andrew G. Oosterbaan, Chief, Child Exploitation and Obscenity Section, Criminal Division, Department of Justice, 1400 New York Ave., NW., Suite 600, Washington, DC, 20530, telephone (202) 514–5780. To ensure proper handling, please reference CRM 100 on your correspondence. Comments may also be submitted electronically to the Criminal Division at *Admin.Ceos@usdoj.gov.* When submitting comments electronically, please include CRM 100 in the subject heading. Comments are available for public inspection at this location by calling (202) 514–5780 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Andrew G. Oosterbaan, Chief, Child Exploitation and Obscenity Section, Criminal Division, Department of Justice, 1400 New York Ave., NW., Suite 600, Washington, DC, 20530, telephone (202) 514–5780.

SUPPLEMENTARY INFORMATION:

Entities Affected by This Regulation

The child pornography reporting provisions of the Protection of Children from Sexual Predators Act (PCSPA) were enacted as section 604 of the Act, Pub. L. 105–314, 112 Stat. 2974, codified at 42 U.S.C. 13032 (1999 Supp.) and 18 U.S.C. 2702(b)(6). As set forth at 42 U.S.C. 13032, the PCSPA originally required providers of electronic communication services or remote computing services to the public through a facility or means of interstate or foreign commerce (''providers'') who obtain knowledge of the apparent production, distribution, or possession of child pornography[2] to make a report of such facts or circumstances to a law enforcement agency or agencies designated by the Attorney General. As set forth infra, the statute was subsequently amended to require providers to report directly to the National Center for Missing and Exploited Children (NCMEC), which then forwards reports to designated law enforcement agencies. Thus, in view of the previously-existing statutory reporting requirements imposed on providers, this regulation affects only the law enforcement agencies designated herein and NCMEC (to the extent that it is directed to share reports with designated law enforcement agencies).

Rulemaking History

The Department of Justice published a proposed rule on May 26, 1999, 64 FR 28422 (the ''1999 proposed rule''), proposing to carry out the Attorney General's responsibilities under the child pornography reporting provisions of the PCSPA.

Under the 1999 proposed rule, reports of child pornography made pursuant to 42 U.S.C. 13032 were to be submitted by providers directly to the Federal Bureau of Investigation (FBI) and the United States Customs Service (USCS) (the investigative arm of the Customs Service is now in the Bureau of Immigration and Customs Enforcement (BICE) at the Department of Homeland Security), which then had jurisdiction to investigate reports of child pornography on electronic communication services or remote computing services. The 1999 proposed rule also outlined the contents of the report and the means for making the report, indicated that providers had no duty to monitor customers or content,[3] referred providers to the Electronic Communications Privacy Act, and included definitions.

The 1999 proposed rule included a request for comments by July 26, 1999. The Department received three comments concerning two aspects of the proposed rule.

On November 29, 1999, as part of the Consolidated Appropriations Act, 2000, Pub. L. 106–113, 113 Stat. 1501, Congress amended 42 U.S.C. 13032 to require providers to report incidents of suspected child pornography to the ''Cyber Tipline'' at NCMEC, which is required to forward that report to a law enforcement agency or agencies designated by the Attorney General.

On April 30, 2003, as part of the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003, Pub. L. 108–21, 117 Stat. 650 (the ''PROTECT Act''), Congress amended 42 U.S.C. 13032 to allow NCMEC to forward provider reports to State and local law enforcement agencies where State law has been violated and to expand the duties of the United States Secret Service (''Secret Service'') to include providing forensic and investigative assistance to NCMEC in support of any investigation involving missing or exploited children.

Comparison of This Interim Final Rule With the 1999 Proposed Rule

Because the 1999 amendment to 42 U.S.C. 13032 changed the recipient of the reports, this Interim final rule (''Interim final rule'') reflects that amendment.

This Interim final rule requires the providers to report instances of apparent child pornography to the ''Cyber Tipline'' at NCMEC (*http://www.CyberTipline.com*). The Interim final rule requires NCMEC to forward the report of apparent child pornography to the law enforcement agencies designated in the 1999 proposed rule (the FBI and the USCS (now BICE)), and also designates the United States Postal Inspection Service (Postal Inspection Service) and the

[1] The Bureau of Immigration and Customs Enforcement was formerly known as the United States Customs Service and was referred to in the 1999 proposed rule as such.

[2] *See* sections 2251, 2251A, 2252, 2252A, and 2260 of title 18, United States Code.

[3] The statute already notes this fact. *See* 42 U.S.C. 13032(e) (''Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person.'').

Secret Service as recipients of the report.

The Interim final rule reflects only a portion of the 1999 proposed rule. For example, the Interim final rule does not elaborate on the contents of the report, the means for making the report to Federal agencies (now moot due to the 1999 amendment to the statute), a discussion of monitoring (already explicitly covered by 42 U.S.C. 13032). Nor does the Interim final rule contain any reference to the Electronic Communications Privacy Act, or definitions. These issues will be addressed at a later time through a subsequent final rule.

Discussion of Comments on the 1999 Proposed Rule

National Center for Missing and Exploited Children as Designated Agency

NCMEC and the Internet Alliance commented that the Department should designate NCMEC as the conduit agency through which Federal law enforcement would receive reports under the PCSPA. NCMEC stated that its ''Cyber Tipline,'' which already receives reports of illegal Internet activity from citizens and the online industry, would be the appropriate repository of PCSPA reports. According to NCMEC, Federal law enforcement agencies have concurrent access to the ''Cyber Tipline'' and would be able to review PCSPA reports immediately.

The 1999 amendment to 42 U.S.C. 13032 requires that all reports be sent to NCMEC, and the Interim final rule is consistent with that amendment. Providers will first telephone NCMEC (800–THE–LOST) to obtain an identification number and a password to be used for all future reports. The provider will then be able to log on to a section of the ''Cyber Tipline'' that is designed for reporting by providers (*http://www.CyberTipline.com*). When the provider logs on to the ''Cyber Tipline,'' it will be required to complete a reporting form requesting information about the apparent child pornography.

The Interim final rule directs NCMEC to fulfill its obligation to forward the reports received through its ''Cyber Tipline'' by providing them to designated law enforcement agencies. The 1999 proposed rule designated the FBI and BICE (then the U.S. Customs Service) as recipients of the reports. In addition, this Interim final rule designates the Postal Inspection Service and the Secret Service as recipients of reports. The purpose for expanding the number of law enforcement agencies designated to receive the reports from NCMEC is to increase the amount of law enforcement resources available to combat child pornography on the Internet. Both the Postal Inspection Service and the Secret Service have substantial experience investigating child pornography cases. The need for greater resources is evidenced by two recent changes made by the PROTECT Act. One change authorizes the Secret Service to provide forensic and investigative assistance to NCMEC. See PROTECT Act § 322, codified at 18 U.S.C. 3056. The other allows NCMEC to forward reports to state and local law enforcement agencies where state law is violated. See PROTECT Act § 508, codified at 42 U.S.C. 13032.

Clarification on Reference to the Electronic Communications Privacy Act of 1986

The Commercial Internet eXchange (CIX) commented that § 84.14, ''Contents of the Report,'' suggested by implication that the provider was required to search its records for the identity of subscribers who are suspected of violating the child pornography laws. CIX argued that such an independent disclosure would be in violation of the Electronic Communications Privacy Act of 1986. It further argued that such disclosure would contravene Congressional statements during consideration of the bill that the statute does not require disclosure of the name of the subscriber that was retrieved from the provider's files. CIX suggested that § 84.14(a) be amended to include the phrase ''if they are not obtained from the provider's files'' after the section's suggestion that the report could include ''the identity of persons or screen names of persons transmitting or receiving child pornography.''

The Interim final rule does not contain § 84.14 of the 1999 proposed rule, the substance of which will be promulgated separately at a later date. At that time, the CIX comment will be addressed.

Administrative Procedure Act

This Interim final rule adopts, in part, the provisions of the 1999 proposed rule, and also makes several changes in response to intervening legislation. Because the changes made in the Interim final rule are a logical outgrowth of the 1999 proposed rule, it is not necessary to provide an additional period of notice and comment. *See, e.g., Association of Battery Recyclers, Inc.* v. *EPA,* 208 F.3d 1047, 1958–59 (D.C. Cir. 2000) (stipulating that a final rule need not be exactly the same as the proposed rule as long as it is a logical outgrowth of the proposed rule). This Interim final rule is a logical outgrowth of the proposed rule because ''reports of child pornography made pursuant to 42 U.S.C. 13032 are to be submitted to the Federal agencies that currently have jurisdiction to investigate reports of child pornography on electronic communication services or remote computing services.'' *See* 64 FR 28422, 28423 (1999 proposed rule). This Interim final rule does precisely that—it designates those Federal law enforcement agencies, expanded from two to four, that have jurisdiction to investigate child pornography that should now receive such reports. In addition, this Interim final rule responds to a specific comment to the 1999 proposed rule that NCMEC ought to be the conduit for such reports between the providers and designated Federal law enforcement agencies. In the Interim final rule, NCMEC is now the conduit. The scope and purpose of the two rules are similar: The providers were required under the 1999 proposed rule to report suspected child pornography, and that reporting requirement remains unchanged; merely the recipients of the report are different. The recipients of the providers' reports have been reduced from two possible agencies (the FBI or then-USCS) to one organization, NCMEC. Additional notice and public comment would not elicit criticisms that are relevant to the designation of two additional Federal agencies to receive reports through NCMEC, as those designations are within the Attorney General's discretion and, in the case of the Secret Service, reflect a statutory change to the mission of that agency.

Moreover, additional notice and public commentary are unnecessary. Since 1999, the providers have been required by 42 U.S.C. 13032 to make reports to NCMEC, and the Interim final rule will have no effect on their ongoing reporting obligations. Adding the Postal Inspection Service and the Secret Service as agencies to which NCMEC must forward reports will not impose any additional burden on the providers. Therefore, notice and public commentary are unnecessary, and the Department of Justice has good cause to promulgate this regulation as an Interim final rule without additional notice and comment, see 5 U.S.C. 553(b)(3)(B), although the Department is soliciting post-promulgation public comment on this Interim final rule.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this

regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities. The statute already requires providers of electronic communication services or remote computing services to the public to report incidents of child pornography to NCMEC. See 42 U.S.C. 13032 (2002). The Interim final rule sets forth the mechanism put in place by NCMEC to receive such reports. Specifically, the Interim final rule directs providers to notify NCMEC through the ''Cyber Tipline.'' The provider will initially call NCMEC (800–THE–LOST) to receive an identification number and password that will enable it to log on to the ''Cyber Tipline'' to report all instances of apparent child pornography. The ''Cyber Tipline'' will have a specialized electronic reporting form requesting information from the provider about the suspected violation of child pornography laws. In this manner, the Interim final rule complies with the reporting statute, while limiting the service provider's costs as much as possible. The addition of the Postal Inspection Service and Secret Service as agencies to which NCMEC must forward reports will have no impact on providers.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. All providers, whether large or small, are already required by law to submit reports related to child pornography to NCMEC. This rule designates the Federal agencies to which NCMEC, in turn, will forward such reports. The additional designation of the Postal Inspection Service and the Secret Service as agencies to which NCMEC must forward reports will have no impact on the providers, whether they are small or large.

Executive Order 12866

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

The Department of Justice has assessed the costs and benefits of this rule and has determined that the benefits of this rule justify its costs. As noted, the costs of compliance for a provider of electronic communications services or remote computing services to the public will continue to be limited to the cost of one telephone call to obtain a password for the ''Cyber Tipline'' and the cost of completing online reports of child pornography, which is already required by statute. See 42 U.S.C. 13032 (2002). Permitting NCMEC to forward reports to two additional law enforcement agencies will not impose any additional costs on providers. The costs to NCMEC of making reports available to two additional agencies is negligible, as representatives of those agencies will be housed in NCMEC's offices and the reports will be available on-line.

By contrast, the benefits of this new Interim final rule will be appreciable. The availability of child pornography on the Internet is a growing problem in our Nation that perpetuates the molestation and exploitation of children. The addition of the Postal Inspection Service and Secret Service as recipients of reports will substantially enhance the scope of law enforcement investigative abilities with respect to reports of child pornography on the Internet, particularly where use of the United States mail is implicated in the distribution of child pornography.

Executive Order 13132

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

Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 28 CFR Part 81

Child abuse, Child pornography, Electronic communication services, Federal buildings and facilities, Remote computing services.

■ By virtue of the authority vested in me as Attorney General, including 28 U.S.C. 509 and 510, 5 U.S.C. 301, 42 U.S.C. 13032, PL 105–314, 112 Stat. 2974, and PL 106–113, 113 Stat. 1501, part 81 of title 28, Code of Federal Regulations, is amended as follows:

PART 81—CHILD ABUSE AND CHILD PORNOGRAPHY REPORTING DESIGNATIONS AND PROCEDURES

■ 1. The heading for part 81 is revised as set forth above.

■ 2. The authority citation for part 81 is revised to read as follows:

Authority: 28 U.S.C. 509, 510; 42 U.S.C. 13031, 13032.

■ 3. Sections 81.1 through 81.5 are designated as subpart A and a new subpart heading is added to read as follows:

Subpart A—Child Abuse Reporting Designations and Procedures

§ 81.1 [Amended]

■ 4. Section 81.1 is amended by removing the words ''this part'' and inserting in their place ''this subpart A''.

PART 81—[AMENDED]

■ 5. Part 81 is amended by adding at the end thereof the following new subpart B to read as follows:

Subpart B—Child Pornography Reporting Designations and Procedures

Sec.
81.11 Purpose.
81.12 Submission of reports to the ''Cyber Tipline'' at the National Center for Missing and Exploited Children.
81.13 Submission of reports by the National Center for Missing and Exploited Children to designated agencies; designation of agencies.

Subpart B—Child Pornography Reporting Designations and Procedures

§ 81.11 Purpose.

The regulations in this subpart B designate the agencies that are authorized to receive and investigate

reports of child pornography that are forwarded from the National Center for Missing and Exploited Children under the provisions of 42 U.S.C. 13032.

§ 81.12 Submission of reports to the ''Cyber Tipline'' at the National Center for Missing and Exploited Children.

(a) When a provider of electronic communications services or remote computing services to the public (''provider'') obtains knowledge of facts or circumstances concerning an apparent violation of Federal child pornography statutes designated by 42 U.S.C. 13032(b)(1), it shall, as soon as reasonably possible, report all such facts or circumstances to the ''Cyber Tipline'' at the National Center for Missing and Exploited Children Web site (*http://www.CyberTipline.com*), which contains a reporting form for use by providers.

(b) A provider should initially call the National Center for Missing and Exploited Children to receive an identification number and a password that will enable it to log on to the section of the ''Cyber Tipline'' that is designed for provider reporting.

§ 81.13 Submission of reports by the National Center for Missing and Exploited Children to designated agencies; designation of agencies.

When the National Center for Missing and Exploited Children receives a report from a provider concerning an apparent violation of Federal child pornography statutes specified in 42 U.S.C. 13032(b)(1), it shall immediately forward that report, to the Federal Bureau of Investigation, the Bureau of Immigration and Customs Enforcement, the United States Postal Inspection Service, and the United States Secret Service, designated pursuant to 42 U.S.C. 13032(b)(2).

Dated: October 27, 2003.

John Ashcroft,

Attorney General.

[FR Doc. 03–27467 Filed 11–3–03; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02; I.D. 102803B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

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

ACTION: Trip limit reduction.

SUMMARY: NMFS reduces the trip limit in the commercial hook-and-line fishery for king mackerel in the northern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the Gulf king mackerel resource.

DATES: This rule is effective 12:01 a.m., local time, October 30, 2003, through June 30, 2004, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, telephone 727–570–5727, fax 727–570–5583, e-mail Mark.Godcharles@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota for the northern Florida west coast subzone is 168,750 lb (76,544 kg)(50 CFR 622.42(c)(1)(i)(A)(2)(ii)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B), from the date that 75 percent of the northern Florida west coast subzone's quota has been harvested until a closure of the subzone's fishery has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel from the northern Florida west coast subzone has been reached. Accordingly, a 500–lb (227–kg) trip limit applies to vessels in the commercial fishery for king mackerel in or from the EEZ in the northern Florida west coast subzone effective 12:01 a.m., local time, October 30, 2003. The 500–lb (227–kg) trip limit will remain in effect until the fishery closes or until the end of the current fishing year (June 30, 2004), whichever occurs first.

The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4′ N. lat. (a line directly east from the Miami-Dade County, FL, boundary). The Florida west coast subzone is further divided into northern and southern subzones. The northern subzone is that part of the Florida west coast subzone that is between 26°19.8′ N. lat. (a line directly west from the Lee/Collier County, FL boundary) and 87°31′06′ W. long.(a line directly south from the Alabama/Florida boundary).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is contrary to the public interest. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment will require time and would potentially

result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30 day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: October 29, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–27610 Filed 10–29–03; 4:43 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 03043016–3258–02; I.D. 040103C]

RIN 0648–AQ58

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Vessel Monitoring Systems and Incidental Catch Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to require vessels registered to Pacific Coast groundfish fishery limited entry permits to carry and use mobile vessel monitoring system (VMS) transceiver units while fishing in state or Federal waters off the coasts of Washington, Oregon and California. This action is necessary to monitor compliance with large-scale depth-based conservation areas that restrict fishing across much of the continental shelf.

This final rule also requires the operators of any vessel registered to a limited entry permit and any open access or tribal vessel using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber, to declare their intent to fish within a conservation area specific to their gear type, in a manner that is consistent with the conservation area requirements. This action is intended to further the conservation goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by allowing fishing to continue in areas and with gears that can harvest healthy stocks while reducing the incidental catch of low abundance species.

DATES: Effective January 1, 2004.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) and the finding of no significant impact prepared for this action may be obtained from the Pacific Fishery Management Council (Council) by writing to the Council at 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280, or may be obtained from William L. Robinson, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0070. Copies of the small business compliance guide are available from D. Robert Lohn, Administrator, Northwest Region, NOAA Fisheries, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98112–0070. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS at the address above and by e-mail to *David_Rostker@omb.eop.gov,* or faxed to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Becky Renko or Yvonne deReynier at the Northwest Region, NMFS, phone 206–526–6140; fax: 206–526–6736; and e-mail *becky.renko@noaa.gov* or *yvonne.dereynier@noaa.gov;* or Svein Fougner (Southwest Region, NMFS), phone: 562–980–4000; fax: 562–980–4047; and e-mail: *svein.fougner@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register's Web site at *http://www.access.gpo.gpv/su-docs/aces/aces140.htm.* Background information and documents are available at the NMFS Northwest Region Web site at *http://www.nwr.noaa.gov/1sustfsh/gdfsh01.htm* and at the Council's Web site at *http://www.pcouncil.org.*

Background

A proposed rule for this action was published on May 22, 2003 (FR 86 27972). NMFS requested public comment on the proposed rule through July 21, 2003. During the comment period on the proposed rule, NMFS received 4 letters, including those received from the Council and from the public at the Council's June 2003 meeting. These comments are addressed later in the preamble to this final rule. See the preamble to the proposed rule for additional background information on the fishery and on this final rule.

Under this final rule, any vessel registered to a limited entry permit for the Pacific Coast groundfish fishery will be required to have an operating NMFS type-approved VMS transceiver unit on board while fishing in state or Federal waters off the states of Washington, Oregon and California. This regulatory amendment will require that the vessel owner or operator of a vessel registered to a limited entry groundfish permit carry and use a NMFS type-approved VMS transceiver at all times when engaged in any and all fisheries off the U.S. West Coast. A vessel owner required to continuously operate a VMS transceiver may choose to send an exemption report. This report will allow the owner to disconnect the power to the transceiver unit and discontinue transmissions during a period when the vessel will be continuously out of the water for more than 7 consecutive days, or will allow the owner to reduce or discontinue the VMS transmissions if the vessel is continuously operating seaward of the exclusive economic zone (EEZ) off Washington, Oregon, or California for more than 7 consecutive days.

Before the vessel is used to fish in any trawl Rockfish Conservation Area (RCA) or the Cowcod Conservation Areas (CCA) in a manner that is consistent with the requirements of the conservation areas, a declaration report will be required from (1) any vessel registered to a limited entry permit with a trawl endorsement; (2) any vessel using trawl gear, including exempted gear used to take pink shrimp, spot, and ridgeback prawns, California halibut and sea cucumbers; and (3) any tribal vessel using trawl gear. In addition declaration reports are required from vessels registered to limited entry permits with longline and pot endorsements, before these vessels can be used to fish in any non-trawl RCA or the CCA. The declaration report must be submitted before the vessel leaves port on the trip to fish in an RCA or a CCA. Each declaration report will be valid until cancelled or revised by the vessel operator. The declaration report must state the type of fishing in which the vessel will be engaged. If the type of fishing changes, a new declaration report must be submitted. For further information regarding declaration reports, see the preamble for the proposed rule for this action (68 FR 227972, May 23, 2003).

VMS is a tool that allows vessel activity to be monitored in relation to geographically defined management

areas. VMS transceiver units installed aboard vessels automatically determine the vessel's position using Global Positioning System (GPS) satellites and transmit that position to a land based processing center via a communication satellite. At the processing center, the information is validated and analyzed before being disseminated for various purposes, which may include fisheries management, surveillance and enforcement.

VMS transceiver units are designed to be tamper resistant. In most cases, the vessel owner is not aware of exactly when the unit is transmitting and is unable to alter the signal or the time of transmission. On September 23, 1993 (58 FR 49285) and March 31, 1994 (59 FR 151180), NMFS published VMS standards for transceiver units and service providers used for Federal fisheries management.

Time and area closures have long been used in the Pacific Coast groundfish fishery to restrict fishing activity in order to keep harvests within sector allocations and at sustainable levels and to prohibit the catch of certain species. RCAs are depth-based management areas based on bottom depth ranges where overfished rockfish species commonly occur. The RCAs are large, irregularly-shaped geographical areas that are defined by a series of latitudinal and longitudinal coordinates which generally follow depth (fathom) contours. The RCAs differ from previously closed areas because they extend far offshore, making air and surface craft enforcement difficult.

The depth-based management strategy associated with the RCAs is designed to allow fishing for healthy stocks to continue, while protecting overfished species. However, it presents new enforcement challenges, and requires new tools such as VMS to supplement existing enforcement mechanisms. NMFS and cooperating enforcement agencies (such as the U.S. Coast Guard and state marine law enforcement agencies) will continue to use traditional enforcement methods such as aerial surveillance and marine patrols that have proved effective in the past. Adding requirements for VMS and declaration reports will allow the enforcement agencies to continuously monitor vessels fishing in, and transiting through, the RCAs.

Because of the critical need to monitor the integrity of conservation areas that protect overfished stocks, while allowing for the harvest of healthy stocks, NMFS believes it is necessary to proceed with this rulemaking with the requirement for fishery participants to bear the cost of purchasing, installing, and maintaining VMS transceiver units, VMS data transmissions, and reporting costs associated with declaration requirements. If state or Federal funding becomes available, fishery participants may be reimbursed for all or a portion of their VMS expenses.

NMFS may publish, and as necessary amend, a list of NMFS type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the **Federal Register** or notify the public through other appropriate media or mailings to the permit owner's address of record. NMFS will also distribute installation and activation instructions for the affected vessel owners.

The installation of the VMS transceiver is expected to take less than 4 hours and will be the responsibility of the vessel owners. Prior to fishing, the vessel owner will be required to fax an activation report to NMFS to verify that the unit was installed correctly and has been activated.

Comments and Responses

Comment 1: Because the rule requires vessels with limited entry permits to have VMS transceiver units on at all times, there is no need to require declaration reports for vessels fishing in non-groundfish fisheries in the RCAs.

Response: Unless a vessel meets the specified exemption criteria and has submitted an exemption report, this rule requires all vessels registered to limited entry permits to continuously operate a VMS mobile transceiver regardless of the fishery. Owners/operators of vessels registered to limited entry permits must also submit a declaration report before leaving port on a trip in which (1) a vessel registered to a limited entry permit with a trawl endorsement is used to fish in any trawl RCA or the CCA, or (2) before a vessel registered to a limited entry permit with a pot or longline endorsement is used to fish in any non-trawl RCA or the CCA. Declaration reports are required whether the vessel is fishing for groundfish or non-groundfish species. Declaration reports are not required for vessels fishing seaward or shoreward of the conservation area.

Limited groundfish fishing (*i.e.,* mid-water whiting during the primary season, widow and yellowtail when limits are provided, etc.) as well as non-groundfish fishing are permitted within the RCA. Declaration reports are intended to provide enforcement officers with information to make an initial determination about a vessel's activity in relation to the conservation area restrictions. Because a VMS transceiver unit only transmits the vessel's position, a declaration report is needed to identify the intended target species and gear being deployed. Without a declaration report VMS would be less effective as an enforcement tool because costly visual observations would be required to determine if a limited entry vessel was fishing in a manner consistent with conservation area restrictions.

Comment 2: Three commenters stated that declaration reports alone would be adequate for monitoring limited entry vessels that are legally participating in non-groundfish fisheries within the conservation areas. Therefore, this rule should be amended to allow vessels to discontinue position transmissions when they are participating in non-groundfish fisheries.

Response: NMFS believes that requiring continuous operation of the VMS transceiver units is necessary to maintain the integrity of the monitoring program, and may produce a deterrent effect. Requiring the VMS mobile transceiver unit to be operated continuously will deter fishers from intentionally turning the units off to avoid detection or inadvertently forgetting to turn the units on when required. Requiring the transceiver units to be operated while the vessel is participating in non-groundfish fisheries will allow enforcement officers to easily identify vessels that are fishing in a manner consistent with the conservation area requirements during routine enforcement activities. This will allow traditional enforcement tools to be used more effectively.

Comment 3: One commenter stated that reliance on declaration reports alone for monitoring open access trawl and non-trawl vessels will not be adequate to ensure compliance with conservation area restrictions.

Response: Traditional enforcement methods will continue to be used to monitor fishing activities. Although not as effective as VMS, declaration reports will improve the information that is available for monitoring compliance with the depth-based restrictions and allow traditional enforcement tools to be used more efficiently.

During the initial phase of this program, the Council recommended that vessels registered to limited entry permits be required to carry and use VMS transceiver units while fishing off the West Coast. This is intended to be a pilot program that begins with the sector that is allocated the majority of the groundfish resources. NMFS believes that a VMS based monitoring program is an effective tool for monitoring compliance with time area restrictions and is therefore considering

extending the requirement for vessels that participate in the open access and recreational sectors of the fishery.

Comment 4: VMS transmissions should only be required when a vessel is operating outside of the ''boundary line'' for state territorial waters.

Response: NMFS believes that it is necessary to require the VMS transceiver unit be operated from 0–200 nautical miles offshore (in state marine and Federal waters). Though the term EEZ was used in the proposed rule, and is defined at 50 CFR 660.10 as ''all waters from the seaward boundary of each of the coastal states to a line in which each point is 200 nautical miles (370.40 km) from the baseline from which the territorial sea of the U.S. is measured'', the term was used in error. NMFS believes that requiring continuous operation of the VMS transceiver units is necessary to maintain the integrity of the monitoring program as it might have a deterrent effect. The intent was for the rule to apply to all waters 0–200 nautical miles offshore. Data presented in the EA/RIR/FRFA supports this area of coverage.

In some cases the RCAs, which were created to reduce the impacts on overfished species, cross between state and Federal waters. A major benefit of VMS is its deterrent effect. It has been demonstrated that if fishing vessel operators know that they are being monitored and that a credible enforcement action will result from illegal activity, then the likelihood of that illegal activity occurring is significantly diminished. Requiring the VMS mobile transceiver unit to be operated continuously will deter fishers from intentionally turning the units off to avoid detection or inadvertently forgetting to turn the units on when required.

Comment 5: A fixed gear fisherman expressed concern about regulatory provisions regarding the transiting of RCAs. The provision requires limited entry vessels with trawl endorsements to have all trawl gear stowed and to be under continuous transit when in a trawl conservation area, unless otherwise announced in the **Federal Register.** The commenter indicated that many fishing fixed gear grounds are in areas deeper than 100 fathoms and are surrounded by shallow waters, that asking the vessel to move to deeper waters to drift while the crew is sleeping is too much, and that there will be a greater chance of injury due to fatigue. The commenter also expressed concern about increased fuel consumption and wear on the engines.

Response: Navigational rules promulgated by 33 U.S.C. Sections 1601–1608, require vessels to maintain a proper look-out by sight as well as by hearing and all other available means appropriate to the circumstances and conditions. This requirement is intended to allow for a full appraisal of the navigational situation to avoid the risk of collision. At this time, the transiting requirement to which the commenter is referring applies only to vessels registered to a limited entry permits with a trawl endorsement. However, at its October 7, 2003, meeting (68 FR 54895, September 19, 2003), the Council's ad hoc VMS Committee considered expanding this requirement to the fixed gear vessels, but failed to reach consensus on the issue. The need for transiting requirements for fixed gear vessels will be brought before the Council at a future date.

Comment 6: While bringing up the trawl net, many small trawl vessels are at the mercy of the wind and currents and unable to change their location. Small vessels could drift into the trawl RCAs while retrieving their gear and be in violation of the transiting provision that requires a vessel to have all trawl gear stowed and to be under continuous transit when in a trawl conservation area, unless otherwise announced in the **Federal Register.**

Response: Position reports from vessels drifting with the currents can look similar to vessels that are fishing. Given limited enforcement resources, NMFS Enforcement believes that the integrity of the restricted areas must be maintained. Therefore NMFS recommends that each vessel operator provide an adequate buffer to allow for drift due to weather and currents.

Comment 7: It is not practical to require vessels to follow the depth contours while transiting an RCA rather than allowing the most direct route to be traveled.

Response: This rule does not specify where a vessel is required to transit an RCA. The transiting provision only requires a vessel to be under continuous transit and all groundfish trawl gear stowed in accordance with 660.322(b)(8) or as authorized or required in the annual groundfish management measures published in the **Federal Register.**

Comment 8: VMS transceiver units need to have a non-fishing mode and the ability to be used in different ways when sleeping or moving between areas.

Response: NMFS is testing several VMS transceiver models that have a function that detects lack of vessel movement and stops sending position reports (greatly reducing power consumption and transmittal costs) when the vessel is not moving. When the vessel begins moving again, hourly position reports resume. NMFS believes that it is necessary to require that the VMS transceiver units be operable at all times, so the integrity of the monitoring program is maintained.

Comment 9: If a vessel were to shut down and drift to allow the crew to sleep, the vessel could drift into the trawl RCA and appear to be fishing.

Response: As also noted under comment 5, navigation rules promulgated by 33 U.S.C. Sections 1601–1608, require vessels to maintain a proper look-out by sight as well as by hearing and all other available means appropriate to the circumstances and conditions. Although this requirement is intended to allow for a full appraisal of the situation to avoid the risk of collision, having a crew member on watch may also be used to prevent drifting into restricted areas.

Comment 10: To prohibit only limited entry trawl vessels from any activity other than transiting a RCA, and to not have the same prohibition for fixed-gear vessels is discriminatory.

Response: NMFS does not agree that prohibiting only limited entry trawl vessels from any activity other than transiting an RCA is discriminatory. NMFS believes that it is necessary to have a provision that prohibits limited entry trawl vessels (except for those conducting allowed activities) from any activity other than transiting the RCA. Track lines from drifting vessels can look similar to track lines from a vessel that is fishing. Therefore, drifting vessels would cause unnecessary expenditure of enforcement resources to check to see if drifting vessels were actually engaged in illegal fishing in the conservation areas. However, at its October 7, 2003, meeting (68 FR 54895, September 19, 2003), the Council's ad hoc VMS Committee considered expanding this requirement to the fixed gear vessels, but failed to reach consensus on the issue. The need for transiting requirements for fixed gear vessels will be brought before the Council at a future date.

Comment 11: The rule should specifically address RCA transiting requirements for trawl vessels that are legally allowed to fish for groundfish within the trawl RCA (*i.e.*, mid-water whiting during the primary season or non-groundfish fishing). Currently it does not allow for legal fishing with trawl gear by vessels registered to limited entry permits.

Response: Language has been added to the prohibition at § 660.306 (bb) that clarifies that limited entry vessels with trawl endorsements will be allowed to conduct fishing activities that are

permitted in the trawl RCA as specified in the groundfish harvest specifications and management measures published in the **Federal Register**.

Comment 12: Two commenters indicated that there are no provisions for transferring VMS transceiver units from one owner to another or one boat to another. The commenter suggests the addition of a simple notification system where a unit owner can notify NMFS that he or she no longer owns or controls the unit. The same notification system would be used in the event of a catastrophic vessel loss where a unit cannot be recovered.

Response: In response to the comments, NMFS has added a field to the activation report that can be used to recognize that a transceiver VMS unit has been previously used on another vessel. Regulatory language has been added that will prohibit transceiver units from being registered to more than one vessel and that requires proof of ownership of the VMS unit or documentation of service termination from the communication service provider before the transceiver unit can be registered to a new vessel.

Comment 13: Two commenters expressed concern that the VMS program will continue indefinitely, even though the need for VMS may disappear if the existing area closures are discontinued. The commenters recommended that a termination clause be written into the final rule.

Response: NMFS does not agree that there is a need to include a termination clause at this time. At any point in the future, the Council may choose to recommend changes and NMFS may choose to revise or eliminate the groundfish regulations pertaining to VMS.

Comment 14: One commenter indicated that VMS transceiver units should also be required for the open access vessels that target rockfish on the shelf or slope.

Response: During the initial phase of this program, the Council recommended that vessels registered to limited entry permits be required to carry and use VMS transceiver units while fishing off the West Coast. This is intended to be a pilot program that begins with the sector that is allocated the majority of the groundfish resources. NMFS believes that a VMS-based monitoring program is an effective tool for monitoring compliance with time area restrictions. At its October 7, 2003, meeting (68 FR 54895, September 19, 2003), the Council's ad hoc VMS Committee considered expanding the VMS requirements to other sectors of the fishery, including the open access groundfish fisheries.

Comment 15: The proposed rule requires that a VMS unit be installed according to procedures established by NMFS. Discussions with NMFS indicate that these procedures will include installation by a NMFS-certified installer. The commenter believes that the installation requirements should be limited to installation pursuant to manufacturer instructions. Certified installers are often not available in smaller ports, and this requirement can be both time consuming and costly.

Response: The rule does not require that a certified person perform the installation. Most of the systems being considered for type-approval are do-it-yourself installations. Vessels that already have VMS transceiver units installed for other fisheries or personal purposes may continue to use their current transceiver unit provided it is a model that has been type-approved for the Pacific Coast groundfish fishery and the software has been upgraded to meet the defined requirements.

Given that the VMS hardware and satellite communications services are provided by third party businesses, as approved by NMFS, there is a need for NMFS to collect information regarding the individual vessel's installation in order to ensure that automated position reports will be received without error. This would require that an activation report which contains a certification checklist be completed by the individual who installed the unit and that it be returned to NMFS prior to using the VMS transceiver to meet regulatory requirements. An activation report would be submitted to NMFS by the VMS installer who would certify the information about the installation by signing the checklist and returning it to NMFS. The checklist indicates the procedures to be followed by the installers and, upon certification and return to NMFS, provides the Office of Law Enforcement with information about the hardware installed and the communication service provider that will be used by the vessel operator.

Comment 16: The proposed rule does not include a provision for a vessel owner to purchase a backup transceiver unit that can be used if the primary transceiver fails during an extended fishing trip. One commenter suggests that a provision be added that will allow a back-up unit to be brought on-line during the course of a fishing trip through simple declaration procedures. This would prevent trips from being interrupted and would continue to meet the information need identified by NMFS.

Response: Nothing in this rule prohibits a vessel owner/operator from submitting an activation report for a back-up VMS transceiver unit. A separate activation report will need to be submitted for each VMS transceiver unit. For clarification, NMFS will ask that the owner/operator specify in the activation report if the unit is the primary or a back-up unit.

Comment 17: The action that NMFS intends to take if the VMS transceiver fails during a fishing trip is unclear. The rule should specifically state that if the VMS transceiver fails during a fishing trip, the vessel will be allowed to complete the current fishing trip provided the vessel operator notifies NMFS of the malfunction.

Response: As stated at § 660.359(d)(5), it is the vessel operator's responsibility to notify NMFS when he or she becomes aware that transmission of automatic position reports have been interrupted. Upon contact with NMFS, the vessel operator will be given specific instructions that may include, but are not limited to, manually communicating to a location designated by NMFS the vessel's position or returning to port until the VMS is operable. Because each incident must be considered on a case-by-case basis, NMFS believes that the regulations adequately reflect the range of actions that may be taken. After a fishing trip during which interruption of automatic position reports has occurred, the vessel owner or operator must replace or repair the mobile VMS transceiver unit prior to the vessel's next fishing trip.

Comment 18: The proposed rule states that a vessel registered to limited entry permits must have the VMS transceiver on at all times whether the vessel is fishing or out of the water. The vessel should only be required to have the VMS unit on when it is fishing for groundfish outside the boundary line for state territorial waters. Requiring transmissions when the vessel is out of the water or when it is not participating in the groundfish fishery is an unnecessary cost to fishermen.

Response: A vessel owner/operator may choose to send an exemption report to discontinue transmissions during a period when the vessel will be continuously out of the water for more than 7 consecutive days. To reduce the reporting burden on vessels outside the EEZ, an optional exemption report was added to the rule to allow vessels to reduce or discontinue VMS hourly position reports when they are out of the EEZ for more than 7 consecutive days. In all other circumstances, NMFS believes that it is necessary to require continuous transmissions of vessel

positions to allow limited enforcement resources to be used efficiently and thereby maintain the integrity of the conservation areas.

Comment 19: Vessels that are registered to ''small fleet'' limited entry permits are placed on trailers and removed from the water each day. Requiring the vessel to keep the VMS transceiver unit on at all times would result in position transmissions from land and unnecessary transmission fees. The commenter recommends that NMFS establish a geo-fence that would trigger the VMS transceiver unit to stop and start position transmissions.

Response: NMFS recognizes there may be some unique circumstances where it is unnecessary for position reports to be sent while vessels are on land, and is therefore evaluating geo-fencing and other technologies to address the commenter's concern. Upon testing and evaluation, these technologies may provide options for modifying position reporting requirements in the future.

Comment 20: We note that the EA/RIR/IRFA prepared for the proposed rule grossly underestimates installation costs, because they do not include compensation for the travel time of a certified installer to remote ports.

Response: The use of certified installers is not required. The installation of the transceiver units was estimated at 4 hours per vessel, or $120, at $30 per hour for the do-it-yourself installation. The actual installation time for a VMS unit is estimated to be less than two hours, but a higher estimate of 4 hours/vessel is used, based on a worst case scenario where the power source (such as a 12-volt DC outlet) is not convenient to a location where the VMS unit can be installed. Most of the systems being considered for type-approval are do-it-yourself installations.

Given that the VMS hardware and satellite communications services are provided by third party businesses, as approved by NMFS, there is a need for NMFS to collect information regarding the individual vessel's installation in order to ensure that automated position reports will be received. This information collection would not increase the time burden for installation of VMS, but would require that an activation report, which includes a certification checklist, be returned to NMFS prior to using the VMS transceiver to meet regulatory requirements. The time and cost burden of preparing and submitting installation information to NMFS is minor. Submission of a checklist would be required only for the initial installation or when the hardware or communications service provider changes. NMFS estimates a time burden of 5 minutes ($2.50 at $30 per hour) for completing the checklist and additional $3 for mailing/faxing to NMFS, for a total of $5.50 per occurrence.

Comment 21: Several commenters indicated that NMFS should pay for the costs of the VMS transceiver unit, while the vessel owner should only be responsible for installation and operation related costs of the VMS transceiver units.

Response: Although the Council recommended that NMFS fully fund a VMS monitoring program, it is not possible at this time because neither state nor Federal funding is available for purchasing, installing, or maintaining VMS transceiver units, nor is funding available for data transmission. Because of the critical need to monitor the integrity of conservation areas that protect overfished stocks, while allowing for the harvest of healthy stocks, NMFS believes it is necessary to proceed with this rulemaking. To move this rulemaking forward at this time, it is necessary to require fishery participants to bear the cost of purchasing, installing, and maintaining VMS transceiver units, VMS data transmissions, and reporting costs associated with declaration requirements. If state or Federal funding becomes available, fishery participants may be reimbursed for all or a portion of their VMS expenses.

Comment 22: The cost for the VMS transceiver units and installation presented in the preamble and the classification section under the Initial Regulatory Flexibility Analysis (IRFA) of the proposed rule are not consistent.

Response: The cost values for the VMS transceiver units and installation presented in the preamble and those values presented in the classification section under the IRFA of the proposed rule are consistent, but represent different groups of VMS transceiver units. The values presented in the preamble represent the current price range for all VMS units that are nationally type-approved for fishery monitoring in the various NMFS regions, this includes upgraded units with 2-way communications and other value added features. In contrast, the values presented in the IRFA are based on a price range for the units that are likely to be type-approved for the Pacific Coast groundfish fishery.

Comment 23: The estimated benefits of VMS presented in the classification section of the proposed rule under the EA/RIR/IRFA analysis misrepresent the benefits of VMS. Benefits associated with depth-based management should be removed from the analysis since there is no revenue gain to the fishermen from the VMS requirements.

Response: The 2003 depth-based management regime has closed large areas to fishing, but has allowed more liberal trip limits for healthy stocks than would have been available without depth-based closures. To continue to allow this combination of depth closures and higher limits, it is necessary to establish a monitoring program to ensure the integrity of these large depth-based conservation areas. With the 2003 Annual Specifications and Management Measures, the Council recommended several measures, including implementation of VMS, to track movement of vessels through and within depth zones. Without a management strategy based on depth-based conservation areas, the fishery would most likely be managed under more seriously constrained limits on healthy stocks that co-occur with overfished species. Therefore, NMFS believes that the values accurately reflect the benefit to the fisheries from VMS.

Comment 24: Because the cost of the VMS unit and its maintenance will likely be the burden of the vessel owner/operator, the type-approved units must be cost effective and durable enough for vessels registered to ''small fleet'': 16–21 ft (4.8–6.4 m), limited entry permits.

Response: NMFS is testing VMS transceiver units that are appropriate for ''small fleet'' limited entry vessels with the intent of type-approving models that are cost effective and durable enough for vessels registered to ''small fleet'' limited entry permits.

Comment 25: Because the cost of the VMS unit and its maintenance will likely be the burden of the vessel owner/operator, the approved units must be cost effective and durable enough for vessels registered to ''small fleet'' limited entry permits.

Response: NMFS is testing VMS transceiver units with the intent of type-approving models that are cost effective and durable enough for vessels registered to ''small fleet'' limited entry permits.

Comment 26: To take enforcement action against a vessel, NMFS should require that an actual observation be made of the violation, so it will hold up in court.

Response: By law, enforcement proceedings are subject to standards of proof and rules of evidence that will determine what evidence is sufficient in particular cases.

Comment 27: The commenter recommends that VMS transceiver units

suitable for use on ''small fleet'' (16–21 ft) (4.8–6.4 m in length) limited entry vessels, *i.e.,* units that are small and durable, be type-approved for use under this rule.

Response: NMFS is in the process of testing and type-approving VMS transceiver units that are appropriate for ''small fleet'' limited entry vessels.

Comment 28: One commenter indicated that the final rule should not become effective before the congressionally-mandated capacity reduction program becomes effective because these same vessels would be affected by both actions. Another commenter stated that the final rule should not become effective before January 1, 2004. While yet another commenter stated that it is highly problematic because depth-based management measures are currently in place and need to be monitored. This commenter recommended immediate implementation of VMS.

Response: At its November 2002 meeting, the Council recommended that NMFS move forward with a proposed rule to implement a VMS program for the Pacific Coast groundfish fishery as soon as possible in 2003. NMFS recognizes the importance of VMS for monitoring depth-based management measures and intended to implement the program as soon as possible in 2003 while allowing adequate time for public review and for the affected public to purchase and install all of the necessary equipment and services.

At its June 2003 meeting, the Council reviewed the proposed rule and recommended that the effective date for the rulemaking be January 1, 2004. NMFS agrees with the Council's recommendation for the following reasons: (1) A substantial proportion of limited entry trawl vessels (20–40 percent) could be bought out of the fishery by January 2004, and requiring these vessels to purchase VMS units before then would be unnecessary; and (2) additional time is needed for NMFS to put the necessary VMS infrastructure in place. This is because defining and verifying coordinates for depth contour lines, creating a ''geo-fence'' for ''small fleet'' limited entry permits, and completing the type-approval process will require more time than had originally been estimated.

Comment 29: NMFS should require vessels to have VMS transceiver units with 2-way communications rather that the proposed requirement for 1-way communications. Having 2-way communications would allow NMFS to communicate directly with vessels to determine if they are engaged in illegal fishing rather than having to conduct an at-sea observation.

Response: NMFS agrees that the benefits of a VMS monitoring program that includes 2-way communications are greater than a program with 1-way communications. This is because 2-way communications can be used for transmitting reports from the vessel, receiving operational messages, and for inquiring about use of distress signal. However, the cost to industry and the diversity of fishery participants were also considered. NMFS determined that the Council recommended alternative which included a 1-way communications system (ship-to-shore) satisfied the defined need for action, while being less costly than a 2-way communication system. This rule defines minimum requirements and will not preclude a vessel owner from procuring a VMS unit type-approved by NMFS for the Pacific Coast groundfish fishery that provides additional services such as 2-way communications and has capabilities used exclusively by the vessel owner and operator.

Changes From the Proposed Rule

This final rule includes the following changes from the proposed rule:

1. In § 660.306(z)(6) language has been added that will prohibit transceiver units from being registered to more than one vessel at a time.
2. In § 660.306(bb) language has been added to allow limited entry vessels with trawl endorsements to conduct fishing activities that are permitted in the trawl RCA.
3. In § 660.359(d)(2)(ii) language has been added to require that a proof of ownership of the VMS transceiver unit or service termination from the communication service provider be provided in order for the unit to be registered to a new vessel.
4. In § 660.306(Z)(1) and 660.359(b) references to EEZ have been changed to clearly state that the rule applies to state and Federal marine waters 0–200 nautical miles.

Classification

The Administrator, Northwest Region, NMFS, determined that the FMP regulatory amendment is necessary for the conservation and management of the Pacific Coast groundfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

NMFS prepared an IRFA which was summarized in the proposed rule published on May 22, 2003 (68 FR 27972). NMFS prepared a FRFA that describes the economic impact of this action on small entities. The following is the summary of the FRFA. The need for and objectives of this final rule are contained in the **SUPPLEMENTARY INFORMATION** of the preamble and in the proposed rule.

This final rule does not duplicate, overlap, or conflict with other Federal rules. A range of five alternative actions were considered and analyzed. The alternative monitoring systems included: (1) The status quo, (2) a declaration system, (3) a basic VMS program with 1-way communications (the proposed action), (4) an upgraded VMS program with 2-way communications, and (5) the expanded use of fishery observers. Vessel plotters were recommended as a monitoring system by the industry. After consideration, it was determined that vessel plotters, which were designed as a navigational aid, would not be an adequate enforcement monitoring tool for depth-based management.

RCAs are large-scale, depth-related closed areas that are being used to restrict fishing across much of the continental shelf. The depth-based management strategy associated with the RCAs is designed to allow fishing for healthy stocks to continue, while protecting overfished species. However, it presents new enforcement challenges, and requires new tools such as VMS to supplement existing enforcement mechanisms.

Depth-based management measures would have remained in place under each of the alternatives, except that it is reasonable to believe that they would have been discontinued in 2004 under the status quo alternative. Declaration reports (Alternative 2) alone are not as effective as VMS in monitoring a vessel's location in relation to restricted areas. Observers (Alternative 5), the most expensive of the alternatives, provide detailed information, much of which goes beyond the identified need. VMS is an effective tool for monitoring vessel location. The two approaches to VMS considered during the rulemaking process were: A basic VMS system (Alternative 3—the preferred action) and an upgraded VMS system (Alternative 4). The primary difference between the two alternatives was that the upgraded system uses two-way communications between the vessel and shore such that full or compressed data messages can be transmitted and received by the vessel, while the basic system only transmits positions to a shore station. It was determined that the basic system was the minimum system that would maintain the integrity of the closed areas. However, this action will not preclude vessels from installing an upgraded VMS system.

The alternative coverage levels for declarations and VMS monitoring ranged substantially, from all limited entry vessels actively fishing off the West Coast to all limited entry, open access, and recreational charter vessels regardless of where fishing occurs. During the initial phase of this program, the Council recommended starting with vessels registered to limited entry permits fishing in state or Federal waters off the Washington, Oregon, and California coasts to be required to have VMS transceiver units. This is intended to be a pilot program that begins with the sector that is allocated the majority of the groundfish resources. In addition, alternative approaches for funding the purchasing, installation, and maintenance of VMS transceiver units, as well as the responsibilities for transmission of reports and data were considered and included the following alternatives: Vessel pays all costs, vessel pays only for the transceiver, NMFS pays for initial transceiver, and NMFS pays all costs. Although the Council recommended that NMFS fully fund a VMS monitoring program, it is not possible at this time because neither state nor Federal funding is available for purchasing, installing, or maintaining VMS transceiver units, nor is funding available for data transmission. Because of the critical need to monitor the integrity of conservation areas that protect overfished stocks, while allowing for the harvest of healthy stocks, NMFS believes it is necessary to proceed with this rulemaking.

Approximately 424 vessels that are registered to limited entry permits that operate in the waters off the states of Washington, Oregon or California would be required to carry and operate a NMFS type-approved VMS transceiver unit. All but 10 of the affected entities qualify as small businesses. Vessels required to carry VMS transceiver units will provide installation/activation reports, hourly position reports, and exemption reports.

The burden on fishery participants was considered and only the minimum data needed to monitor compliance with regulations are being required. In addition to VMS requirements, declaration report requirements would apply to vessels registered to limited entry permits with trawl endorsements (262 vessels); other vessels using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber (299 vessels); and tribal vessels using trawl gear, before these vessel are used to fish in any trawl RCA or the CCA. In addition, declaration reports would be required from vessels registered to limited entry permits with longline and pot endorsements (167), before the vessel could be used to fish in any non-trawl RCA or the CCA.

The Council's VMS Committee initially considered declaration reports as ''per trip'' reports. Following consultation with fishery participants, it was determined that the needs of NMFS and the U.S. Coast Guard could be met with less frequently made declaration reports. Therefore, it was determined that a declaration report identifying the type of gear being used by a vessel would remain valid until cancelled or revised by the vessel operator. This results in a significant reduction in the number of reports.

Following consultation with fishery participants, it was determined that some vessels may prefer to reduce the costs of reporting when leaving the waters off the coasts of Washington, Oregon, and California. A substantial number of permitted vessels also fish in waters off Alaska and in areas seaward of the EEZ. In addition, vessels are commonly pulled out of the water for extended periods. To reduce the reporting burden on vessels seaward of the EEZ or out of the water, an optional exemption report was proposed to allow vessels to reduce or discontinue VMS hourly position reports when they are out of the EEZ for more than 7 consecutive days.

Public comment on the proposed rule identified that there are no provisions for transferring of VMS units from one owner to another or one boat to another. In response, NMFS added regulatory language that will prohibit transceiver units from being registered to more than one vessel at a time, while identifying how transceiver units can be transferred and registered to a new vessel.

The preferred alternative (alternative 3), which would require limited entry vessels to purchase and operate a VMS in waters off of Washington, Oregon, and California, is expected to result in increased profits to individual vessels because the depth-based strategy can continue to be used to manage the fishery. To determine profitability, the Council compared the costs of purchasing and operating a VMS unit to the increase in revenue that would be obtained from expanded fishing opportunities under the depth-based management program. Since revenue data for individual vessels were not readily available, the Council used average annual revenue per vessel as a proxy. In the absence of vessel operating cost data, the Council considered only the cost of purchasing and maintaining a VMS unit and assumed other costs to be constant. The VMS units that are expected to be type-approved for this fishery range in costs and service features. This allows the vessel owner the flexibility in choosing the model that best fits the needs of his or her vessel.

NMFS will pay for all costs associated with polling (when the processing center queries the transceiver, outside of regular transmission, for a position report). The costs of installation are minimal because the transceivers can be installed by the vessel operator. Vessels that already have VMS transceiver units installed for other fisheries or personal purposes could use their current unit, providing it is a model that has been type-approved for the Pacific Coast groundfish fishery and the software has been upgraded to meet the defined requirements. The estimated costs of purchasing and installing the VMS transceiver unit would be between $800 and $3800 per individual vessel, and between $548 and $1698 per year to operate and maintain the unit. Revenues from expanded fishing opportunities were estimated to increase $26,000 per year for limited entry trawl vessels and $14,000 per year for limited entry longline and pot vessels, far exceeding the estimated start-up and maintenance costs of the VMS. While ex-vessel revenues appear higher on average for vessels likely to be required to use VMS under the depth-based management regime, it should be noted that fishing costs may also be higher, offsetting some of the apparent gain. Unfortunately, vessel cost data necessary to estimate this effect are currently not available. It is also important to keep in mind that using average revenues masks the variability of ex-vessel revenues in each vessel class. While on average, additional revenues appear greater than VMS-related costs, for some individual vessels in each class this will not be the case. Alternative 4, which would implement a two-way VMS, would produce higher costs per vessel (year 1 at $3,878-$7,607; subsequent years at $1,063-$2,342) and would yield less profit, than the proposed VMS alternative. Alternative 5, which would implement observer coverage, would be very costly at $300 per day, or $36,000 per year assuming 10 fishing days per month, and would most likely produce economic losses for the majority of limited entry vessels. Alternative 2, which would allow expanded fishing by use of declaration only, would be more profitable to limited entry vessels than the proposed VMS measure, since they would earn the same revenue at a minimal cost.

Mandatory VMS will allow for better enforcement of fishing regulations and

provide a more accurate database of fishing activity to better meet the conservation goals of the Pacific Groundfish FMP. The proposed measure to require all trawl vessels to declare their intentions to fish is expected to have only a minimal impact on individual trawlers since the cost of a declaration is minimal.

Most vessels affected by this action have gross annual receipts of under $3.5 million and are defined as small entities under section 601 of the Regulatory Flexibility Act; however, there are approximately 10 vessels defined as large entities operating in the limited trawl fishery. There could be some disproportionate economic impacts on small entities versus large entities for the group of limited entry vessels that are less than 40 ft (12.192 m) in length and have relatively low gross annual receipts. These include 90 limited entry vessels, comprised of 5 trawl vessels and 85 longline and pot vessels. Depending upon the cost of the VMS, some of these smaller vessels would be forced to pay a relatively larger share of their annual expenditures for purchase of the VMS compared to the larger vessels.

All vessels that fish in conservation areas would increase their gross receipts by being able to fish in more productive areas, having the effect of increasing profitability and mitigating the cost of the VMS. This mitigation would be less for smaller vessels, due to their smaller catches and, therefore, income from groundfish.

Section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with this final rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (the guide) will be prepared. Copies of this final rule are available from the Northwest Regional Office, and the guide, *i.e.*, permit holder letter, will be sent to all holders of limited entry permits for the Pacific Coast groundfish fishery. The guide and this final rule will also be available upon request.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by OMB, OMB Control Number 0648–0478. Public reporting burden for this collection of information is estimated to average as follows: 4 minutes per response for each declaration report at an estimated time burden on the public of 578 hours annually for all 723 respondents; At 4 hours per response for installation of the VMS transceiver unit and 5 minutes per response to send the installation/activation report with an estimated time burden to the public from all 424 respondents of 1,696 hours for installation of the VMS transceiver units and 34 hours annually for sending the installation/activation report; At 5 seconds per response for each hourly position report, the expected time burden on the public from all 424 respondents would be 5,159 hours annually; and at 4 minutes per response for each exemption report the expected time burden on the public from 145 respondents would be 19 hours annually. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS at the address above and by e-mail to *David_Rostker@omb.eop.gov,* or faxed to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule was developed after meaningful consultation and collaboration with the tribal representative on the Council who has agreed with the provisions that apply to tribal vessels.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: October 29, 2003.

Rebeccca Lent,

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

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF THE WEST COAST STATES AND IN THE WESTERN PACIFIC

Subpart G—West Coast Groundfish Fisheries

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.302, add ''Address of record'', ''Groundfish Conservation Area or GCA'', ''Mobile transceiver unit'', ''Office for Law Enforcement'', and ''Vessel monitoring system or VMS'', in alphabetical order to read as follows:

§ 660.302 Definitions.

Address of record. Address of Record means the business address of a person, partnership, or corporation used by NMFS to provide notice of actions.

* * * * *

Groundfish Conservation Area or GCA means a geographic area defined by coordinates expressed in degrees latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species. Specific GCAs are referred to or defined at 660.304(c).

* * * * *

Mobile transceiver unit means a vessel monitoring system or VMS device, as set forth at § 660.359, installed on board a vessel that is used for vessel monitoring and transmitting the vessel's position as required by this subpart.

Office for Law Enforcement (OLE) refers to the National Marine Fisheries Service, Office for Law Enforcement, Northwest Division.

* * * * *

Vessel monitoring system or VMS means a vessel monitoring system or mobile transceiver unit as set forth in § 660.359 and approved by NMFS for use on vessels that take (directly or incidentally) species managed under the Pacific Coast Groundfish FMP, as required by this subpart.

■ 3. Section 660.303 is revised to read as follows:

§ 660.303 Reporting and recordkeeping.

(a) This subpart recognizes that catch and effort data necessary for implementing the PCGFMP are collected by the States of Washington, Oregon, and California under existing

state data collection requirements. Telephone surveys of the domestic industry may be conducted by NMFS to determine amounts of whiting that may be available for reallocation under 50 CFR 660.323(a)(4)(vi). No Federal reports are required of fishers or processors, so long as the data collection and reporting systems operated by state agencies continue to provide NMFS with statistical information adequate for management.

(b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law.

(c) Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

(d) *Reporting requirements for vessels fishing in conservation areas*—(1) *Declaration reports for trawl vessels intending to fish in a conservation area.* The operator of any vessel registered to a limited entry permit with a trawl endorsement; any vessel using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber; or any tribal vessel using trawl gear must provide NMFS with a declaration report, as specified at paragraph 660.303(d)(5), of this section to identify the intent to fish within the CCA, as defined at § 660.304, or any trawl RCA, as defined in the groundfish annual management measures that are published in the **Federal Register**.

(2) *Declaration reports for non-trawl vessels intending to fish in a conservation area.* The operator of any vessel registered to a limited entry permit with a longline or pot endorsement must provide NMFS OLE with a declaration report, as specified at paragraph (d)(5) of this section, to identify the intent to fish within the CCA, as defined at § 660.304, or any non-trawl RCA, as defined in the groundfish annual management measures that are published in the **Federal Register**.

(3) *When a declaration report for fishing in a conservation area is required,* as specified in paragraphs (d)(1) and (d)(2) of this section, it must be submitted before the vessel leaves port:

(i) On a trip in which the vessel will be used to fish in a conservation area for the first time during the calendar year;

(ii) On a trip in which the vessel will be used to fish in a conservation area with a gear type that is different from the gear declaration provided on a valid declaration report as defined at paragraph 660.303(d)(6) of this section; or

(iii) On a trip in which the vessel will be used to fish in a conservation area for the first time after a declaration report to cancel fishing in a conservation area was received by NMFS.

(4) *Declaration report to cancel fishing in a conservation area.* The operator of any vessel that provided NMFS with a declaration report for fishing in a conservation area, as required at paragraphs (d)(1) or (d)(2) of this section, must submit a declaration report to NMFS OLE to cancel the current declaration report before the vessel leaves port on a trip in which the vessel is used to fish with a gear that is not in the same gear category set out in paragraph § 660.303(d)(5)(i) declared by the vessel in the current declaration.

(5) *Declaration reports will include:* the vessel name and/or identification number, and gear declaration (as defined in § 660.303(d)(5)(i)). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt. Retention of the confirmation code or receipt to verify that the declaration requirement was met is the responsibility of the vessel owner or operator.

(i) One of the following gear types must be declared:

(A) Limited entry fixed gear,

(B) Limited entry midwater trawl,

(C) Limited entry bottom trawl,

(D) Trawl gear including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber,

(E) Tribal trawl,

(F) Other gear including: gear used to take spot and ridgeback prawns, crab or lobster, Pacific halibut, salmon, California halibut, California sheephead, highly migratory species, species managed under the Coastal Pelagic Species Fishery Management Plan, and any species in the gillnet complex as managed by the State of California,

(G) Non-trawl gear used to take groundfish.

(ii) Declaration reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the **Federal Register**. Other methods may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting declaration reports. Instructions and other information needed to make declarations may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at § 660.335(a)(2). Owners of vessels that are not registered to limited entry permits and owners of vessels registered to limited entry permits that did not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the declaration is required to obtain information needed to make declaration reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Time).

(6) *A declaration report will be valid until* a declaration report to revise the existing gear declaration or a declaration report to cancel fishing in a conservation area is received by NMFS OLE. During the period that a vessel has a valid declaration report on file with NMFS, it cannot fish with a gear other than a gear type that is within the gear category (50 CFR 660.303(d)(5)) declared by the vessel. After a declaration report to cancel fishing in the RCA is received, that vessel must not fish in a conservation area until another declaration report for fishing by that vessel in a conservation area is received by NMFS.

■ 4. Section 660.304 is revised to read as follows:

§ 660.304 Management areas, including conservation areas, and commonly used geographic coordinates.

(a) *Management areas.* (1) *Vancouver.* (i) The northeastern boundary is that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35′75″ N. lat., 124°43′00″ W. long.) south of the International Boundary between the U.S. and Canada (at 48°29′37.19″ N. lat., 124°43′33.19″ W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(ii) The northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the EEZ as shown on NOAA/NOS Charts #18480 and #18007:

Point	N. lat.	W. long.
1	48°29′37.19″	124°43′33.19″
2	48°30′11″	124°47′13″
3	48°30′22″	124°50′21″
4	48°30′14″	124°54′52″
5	48°29′57″	124°59′14″
6	48°29′44″	125°00′06″
7	48°28′09″	125°05′47″
8	48°27′10″	125°08′25″
9	48°26′47″	125°09′12″
10	48°20′16″	125°22′48″
11	48°18′22″	125°29′58″
12	48°11′05″	125°53′48″′
13	47°49′15″	126°40′57″
14	47°36′47″	127°11′58″
15	47°22′00″	127°41′23″
16	46°42′05″	128°51′56″
17	46°31′47″	129°07′39″

(iii) The southern limit is 47°30′ N. lat.

(2) *Columbia.* (i) The northern limit is 47°30′ N. lat.

(ii) The southern limit is 43°00′ N. lat.

(3) *Eureka.* (i) The northern limit is 43°00′ N. lat.

(ii) The southern limit is 40°30′ N. lat.

(4) *Monterey.* (i) The northern limit is 40°30′ N. lat.

(ii) The southern limit is 36°00′ N. lat.

(5) *Conception.* (i) The northern limit is 36°00′ N. lat.

(ii) The southern limit is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

Point	N. lat.	W. long.
1	32°35′22″	117°27′49″
2	32°37′37″	117°49′31″
3	31°07′58″	118°36′18″
4	30°32′31″	121°51′58″

(b) *Commonly used geographic coordinates.*

(1) Cape Falcon, OR—45°46′ N. lat.

(2) Cape Lookout, OR—45°20′15″ N. lat.

(3) Cape Blanco, OR—42°50′ N. lat.

(4) Cape Mendocino, CA—40°30′ N. lat.

(5) North/South management line—40°10′ N. lat.

(6) Point Arena, CA—38°57′30″ N. lat.

(7) Point Conception, CA—34°27′ N. lat.

(c) *Groundfish Conservation Areas (GCAs).* In § 660.302, a GCA is defined as ''a geographic area defined by coordinates expressed in latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species.'' Specific GCAs may be defined here in this paragraph, or in the **Federal Register**, within the harvest specifications and management measures process. While some GCAs may be designed with the intent that their shape be determined by ocean bottom depth contours, their shapes are defined in regulation by latitude/longitude coordinates and are enforced by those coordinates. Fishing activity that is prohibited or permitted within a particular GCA is detailed in **Federal Register** documents associated with the harvest specifications and management measures process.

(1) *Rockfish Conservation Areas (RCAs).* RCAs are defined in the **Federal Register** through the harvest specifications and management measures process. RCAs may apply to a single gear type or to a group of gear types, such as ''trawl RCAs'' or ''non-trawl RCAs''.

(2) *Cowcod Conservation Areas (CCAs).* (i) The Western CCA is an area south of Point Conception that is bound by straight lines connecting all of the following points in the order listed:

33°50′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 119°37′ W. long.;
33°00′ N. lat., 119°37′ W. long.;
33°00′ N. lat., 119°53′ W. long.;
33°33′ N. lat., 119°53′ W. long.;
33°33′ N. lat., 119°30′ W. long.; and connecting back to 33°50′ N. lat., 119°30′ W. long.

(2) The Eastern CCA is a smaller area west of San Diego that is bound by straight lines connecting all of the following points in the order listed:

32°42′ N. lat., 118°02 W. long.;
32°42′ N. lat., 117°50 W. long.;
32°36′42″ N. lat., 117°50 W. long.;
32°30′ N. lat., 117°53′30″ W. long.;
32°30′ N. lat., 118°02 W. long.; and connecting back to 32°42′ N. lat., 118°02′ W. long.

(d) *Yelloweye Rockfish Conservation Area (YRCA).* The YRCA is a C-shaped area off the northern Washington coast that is bound by straight lines connecting all of the following points in the order listed:

48°18′ N. lat., 125°18′ W. long.;
48°18′ N. lat., 124°59′ W. long.;
48°11′ N. lat., 124°59′ W. long.;
48°11′ N. lat., 125°11′ W. long.;
48°04′ N. lat., 125°11′ W. long.;
48°04′ N. lat., 124°59′ W. long.;
48°00′ N. lat., 124°59′ W. long.;
48°00′ N. lat., 125°18′ W. long.; and connecting back to 48°18′ N. lat., 125°18′ W. long.

(e) *International boundaries.* (1) Any person fishing subject to this subpart is bound by the international boundaries described in this section, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the United States.

(2) The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the ''3-mile limit'').

(3) The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nm from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the United States and Canada or Mexico.

■ 5. In § 660.306, new paragraphs (z), (aa) and (bb) are added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(z) *Vessel monitoring systems.* (1) Use any vessel registered to a limited entry permit to operate in State or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California, unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with the requirements described at § 660.359.

(2) Fail to install, activate, repair or replace a mobile transceiver unit prior to leaving port as specified at § 660.359.

(3) Fail to operate and maintain a mobile transceiver unit on board the vessel at all times as specified at § 660.359.

(4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel as specified at § 660.359.

(5) Fail to contact NMFS OLE or follow NMFS OLE instructions when automatic position reporting has been interrupted as specified at § 660.359.

(6) Register a VMS transceiver unit registered to more than one vessel at the same time.

(aa) *Fishing in conservation areas.* Fish with any trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber; or with trawl gear from a tribal vessel or with any gear from a vessel registered to a groundfish limited entry permit in a conservation area unless the vessel owner or operator has a valid declaration confirmation code or receipt for fishing in conservation area as specified at § 660.303(d)(5).

(bb) Operate any vessel registered to a limited entry permit with a trawl endorsement in a Trawl Rockfish Conservation Area (as defined at

660.302), except for purposes of continuous transiting, with all groundfish trawl provided that all groundfish trawl gear is stowed in accordance with 660.322(b)(8), or except as authorized in the annual groundfish management measures published in the **Federal Register**.

■ 6. In § 660.322 new paragraph (b)(7) is added to read as follows:

§ 660.322 Gear restrictions.

* * * * *

(b) * * *

(7) Trawl vessels may transit through the trawl RCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either:

(i) Below deck; or

(ii) If the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or

(iii) Remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors.

* * * * *

■ 7. Section 660.359 is added to subpart G to read as follows:

§ 660.359 Vessel Monitoring System (VMS) Requirements.

(a) *What is a VMS?* A VMS consists of a NMFS OLE type-approved mobile transceiver unit that automatically determines the vessel's position and transmits it to a NMFS OLE type-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS OLE.

(b) *Who is required to have VMS?* A vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes in state or Federal water seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California is required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for an NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE, prior to fishing.

(c) *How are mobile transceiver units and communications service providers approved by NMFS OLE?* (1) NMFS OLE will publish type-approval specifications for VMS components in the **Federal Register** or notify the public through other appropriate media.

(2) Mobile transceiver unit manufacturers or communication service providers will submit products or services to NMFS OLE for evaluation based on the published specifications.

(3) NMFS OLE may publish a list of NMFS OLE type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the **Federal Register** or notify the public through other appropriate media. As necessary, NMFS OLE may publish amendments to the list of type-approved mobile transceiver units and communication service providers in the **Federal Register** or through other appropriate media. A list of VMS transceivers that have been type-approved by NMFS OLE may be mailed to the permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS, as required at 660.335(a)(2).

(d) *What are the vessel owner's responsibilities?* If you are a vessel owner that must participate in the VMS program, you or the vessel operator must:

(1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may get a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115–6349, phone: (206) 526–6133.

(2) Activate the mobile transceiver unit, submit an activation report, and receive confirmation from NMFS OLE that the VMS transmissions are being received before participating in a fishery requiring the VMS. Instructions for submitting an activation report may be obtained from the NMFS OLE, Northwest VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115–6349, phone: (206)526–6133. An activation report must again be submitted to NMFS OLE following reinstallation of a mobile transceiver unit or change in service provider before the vessel may participate in a fishery requiring the VMS.

(i) *Activation reports.* If you are a vessel owner who must use VMS and you are activating a VMS transceiver unit for the first time or reactivating a VMS transceiver unit following a reinstallation of a mobile transceiver unit or change in service provider, you must fax NMFS OLE an activation report that includes: Vessel name; vessel owner's name, address and telephone number, vessel operator's name, address and telephone number, USCG vessel documentation number/state registration number; if applicable, the groundfish permit number the vessel is registered to; VMS transceiver unit manufacturer; VMS communications service provider; VMS transceiver identification; identifying if the unit is the primary or backup; and a statement signed and dated by the vessel owner confirming compliance with the installation procedures provided by NMFS OLE.

(ii) Ownership of the VMS transceiver unit may be transferred from one vessel to another vessel by submitting a new activation report, which identifies that the transceiver unit was previously registered to another vessel, and by providing proof of ownership of the VMS transceiver unit or proof of service termination from the communication service provider.

(3) Operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year, unless such vessel is exempted under paragraph (d)(4) of this section.

(4) *VMS exemptions.* A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year may be exempted from this requirement if a valid exemption report, as described at § 660.359(d)(4)(iii), is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section.

(i) *Haul out exemption.* When it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, electrical power to the VMS mobile transceiver unit may be removed and transmissions may be discontinued. Under this exemption, VMS transmissions can be discontinued from the time the vessel is removed from the water until the time that the vessel is placed back in the water.

(ii) *Outside areas exemption.* When the vessel will be operating seaward of the EEZ off Washington, Oregon, or California continuously for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, the VMS mobile transceiver unit transmissions may be reduced or discontinued from the time the vessel leaves the EEZ off the coasts of Washington, Oregon or California until the time that the vessel re-enters the EEZ off the coasts of Washington, Oregon or California. Under this exemption, the vessel owner or operator can request that NMFS OLE reduce or discontinue the VMS transmissions after receipt of an exemption report, if the vessel is equipped with a VMS

transceiver unit that NMFS OLE has approved for this exemption.

(iii) Exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the **Federal Register**. Other methods may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at 660.335(a)(2). Owners of vessels registered to limited entry permits that did not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Standard Time).

(iv) Exemption reports must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at § 660.359(d)(4)(i) and (ii) occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption or at least 2 hours before the vessel is placed back in the water following a haul out exemption.

(5) When aware that transmission of automatic position reports has been interrupted, or when notified by NMFS OLE that automatic position reports are not being received, contact NMFS OLE at 7600 Sand Point Way NE, Seattle, WA 98115–6349, phone: (206)526–6133 and follow the instructions provided to you. Such instructions may include, but are not limited to, manually communicating to a location designated by NMFS OLE the vessel's position or returning to port until the VMS is operable.

(6) After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must replace or repair the mobile transceiver unit prior to the vessel's next fishing trip. Repair or reinstallation of a mobile transceiver unit or installation of a replacement, including change of communications service provider shall be in accordance with the instructions provided by NMFS OLE and require the same certification.

(7) Make the mobile transceiver units available for inspection by NMFS OLE personnel, U.S. Coast Guard personnel, state enforcement personnel or any authorized officer.

(8) Ensure that the mobile transceiver unit is not tampered with, disabled, destroyed or operated improperly.

(9) Pay all charges levied by the communication service provider as necessary to ensure continuous operation of the VMS transceiver units.

[FR Doc. 03–27602 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 68, No. 213
Tuesday, November 4, 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

9 CFR Parts 93, 94, and 95

[Docket No. 03–080–1]

RIN 0579–AB73

Bovine Spongiform Encephalopathy; Minimal Risk Regions and Importation of Commodities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations regarding the importation of animals and animal products to recognize a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy (BSE) into the United States via live ruminants and ruminant products, and are proposing to add Canada to this category. We are also proposing to allow the importation of certain live ruminants and ruminant products and byproducts from such regions under certain conditions. We believe this action is warranted because it would continue to protect against the introduction of BSE into the United States while removing unnecessary prohibitions on certain commodities from Canada and other regions that qualify as BSE minimal-risk regions.

DATES: We will consider all comments that we receive on or before January 5, 2004.

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. 03–080–1, 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. 03–080–1. 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. 03–080–1'' on the subject line.

You may read the risk assessment, environmental assessment, economic analysis, and 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: Dr. Karen James-Preston, Director, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA or the Department) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases. The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a progressive neurological disorder of cattle that results from infection by an unconventional transmissible agent and is not known to exist in the United States. The disease has been difficult to define experimentally with precision, although risk factors that are independent of the causative agent have been identified and can be mitigated. Much of the available data originated from epidemiological observations and not from controlled studies. Controlled studies are often difficult to conduct because of limitations in experimental models and the length of time necessary to conduct the studies, which may require years. Currently, the most accepted theory is that the agent is a modified form of a normal cell surface component known as prion protein, although other types of agents have been implicated, including virinos. The pathogenic form of the protein is both less soluble and more resistant to degradation than the normal form. The BSE agent is extremely resistant to heat and to normal sterilization processes. It does not evoke any demonstrated immune response or inflammatory reaction in host animals.

Despite the difficulty in defining BSE experimentally with precision, risk factors for BSE that can be mitigated have been identified. These factors are based on technical knowledge and disease epidemiology and do not require definition of the nature of the agent. We believe that risk mitigation measures that address the risk factors for BSE will be effective regardless of the precise nature of the BSE agent.

It appears that BSE is spread primarily through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Ruminants in the United States could be exposed to the disease if materials carrying the BSE agent—such as certain meat, animal products, or animal byproducts from ruminants—were imported into the United States and were fed to ruminants in this country. BSE could also be introduced into the United States if ruminants with BSE were imported into the United States.

Because of these risks, the regulations prohibit the importation of live ruminants and certain ruminant products and byproducts from two categories of regions: (1) Those regions in which BSE is known to exist, which are listed in § 94.18(a)(1) of the regulations; and (2) those regions that present an undue risk of introducing BSE into the United States because their import requirements are less restrictive than those that would be acceptable for import into the United States and/or because the regions have inadequate surveillance. These regions of ''undue

risk'' are listed in § 94.18(a)(2) of the regulations.

The prohibitions on the importation of animals, meat, and other animal products into the United States from regions listed in § 94.18(a)(1) or (a)(2) are set forth in 9 CFR parts 93, 94, 95, and 96. Section 93.401 prohibits the importation of any ruminant that has been in these regions. Except for certain controlled transit movements, paragraph (b) of § 94.18 prohibits the importation of fresh (chilled or frozen) meat, meat products, and most other edible products of ruminants that have been in any of the regions. Paragraph (c) of § 94.18 restricts the importation of gelatin derived from ruminants that have been in any of the regions. Section 95.4 prohibits or restricts the importation of certain byproducts from ruminants that have been in any of the regions, and § 96.2 prohibits the importation of casings, except stomach casings, from ruminants that have been in any of the regions.

Essentially then, under the current regulations, there are three categories of regions with regard to BSE. Currently, a region is considered either: (1) A region free of BSE; (2) a region in which BSE is known to exist; or (3) a region that presents an undue risk of BSE. Imports from free regions are generally not subject to restrictions because of BSE. Imports from BSE-affected regions and those that present an undue risk are governed by the same set of restrictions.

We believe it is appropriate to recognize an additional category of regions with regard to BSE—the BSE minimal-risk region. This category would include (1) those regions in which a BSE-infected animal has been diagnosed, but in which measures have been taken that make it unlikely that BSE would be introduced from the region into the United States, and (2) those regions that cannot be considered BSE free even though BSE has not been detected, but that have taken sufficient measures to be considered minimal risk. For instance, a region listed in § 94.18(a)(2) as an ''undue risk'' region might have increased its levels of surveillance or import restrictions to the point that the risk of BSE introduction from that region becomes unlikely, but not yet have had mitigation measures in place long enough to be considered BSE-free.

In § 94.0, we would define *bovine spongiform encephalopathy (BSE) minimal-risk region* by listing the factors we would consider in determining the region's risk status. In a new § 94.18(a)(3), we would list the regions that the Administrator has approved for this designation. At this time, we are proposing to designate one country, Canada, as a BSE minimal-risk region according to the newly proposed factors. (These factors, and the reasons why we believe Canada meets them, are discussed in detail below.) In § 94.18(a)(4), we would explain that a region may request to be designated a BSE minimal-risk region by following the procedures set forth in our regulations in 9 CFR part 92, ''Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions.''

Canada as a BSE Minimal-Risk Region

On May 20, 2003, the Canadian Food Inspection Agency reported a case of BSE in a beef cow in northern Alberta. Therefore, in order to prevent the introduction of BSE into the United States, we published an interim rule on May 29, 2003 (68 FR 31939–31940, Docket No. 03–058–1), effective retroactively to May 20, 2003, to add Canada to the list of regions where BSE exists. As a result of that action, the importation of ruminants that have been in Canada and the importation of meat, meat products, and certain other products and byproducts of ruminants that have been in Canada are prohibited or restricted.

Following the detection of the BSE-infected cow, Canada conducted an epidemiological investigation of the BSE occurrence, and took action to guard against any spread of the disease, including the quarantining and depopulation of herds and animals determined to possibly be at risk for BSE. Subsequently, Canada asked APHIS to consider reestablishing the importation of ruminants and ruminant products into the United States from that country, based on information made available to APHIS regarding Canada's veterinary infrastructure, disease history, practices for preventing widespread introduction, exposure, and/or establishment of BSE, and measures taken following detection of the disease.

In this document, we are proposing to list Canada as a BSE minimal-risk region based on an analysis we conducted of the conditions considered for such a designation and the information available to us regarding how Canada meets those conditions. The risk document, ''Risk Analysis: BSE Risk from Importation of Designated Ruminants and Ruminant Products from Canada into the United States,'' also identifies the measures we believe are necessary to mitigate any BSE risk that specific commodities imported from Canada might present to the United States (discussed in this proposed rule, below, under the heading ''Importation of Ruminant Commodities from a BSE Minimal-Risk Region'').

You may view the analysis 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 proposed rule). You may also request a copy by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the analysis when requesting copies. You may also view the analysis on the Internet by accessing the APHIS Web site at *http://www.aphis.usda.gov*. At the APHIS Web site, click on the ''Hot Issues'' button. On the next screen, click on the listing for ''Bovine Spongiform Encephalopathy (BSE).'' On the next screen, click on the listing for ''Risk Analysis: BSE Risk from Importation of Designated Ruminants and Ruminant Products from Canada into the United States.''

In this proposed rule, we first discuss the factors we would consider in classifying a region as a BSE minimal-risk region. We would consider these factors in considering requests from any region to be classified as a BSE minimal-risk region. We then discuss why we believe Canada qualifies as a BSE minimal-risk region. Following that, we discuss mitigations that we would apply to specific commodities from Canada.

Proposed Factors for BSE Minimal-Risk Regions

APHIS has developed a list of factors we would use to evaluate the BSE risk from a region and classify a region as a BSE minimal-risk region. We would use these factors as a combined and integrated evaluation tool. We are proposing to base the classification on an evaluation of the sum total of these factors, focusing on overall effectiveness of control mechanisms in place (*e.g.*, surveillance, import controls, and a ban on the feeding of ruminant protein to ruminants). For regions in which BSE has been diagnosed, we would base our evaluation on the overall effectiveness of such control mechanisms in place at the time BSE was diagnosed in the region, and on actions taken after the diagnosis (*e.g.*, an epidemiological investigation of the occurrence). For regions in which BSE has not been diagnosed, we would base our evaluation on the adequacy of surveillance mechanisms to detect disease, efficacy of a feed ban, and effectiveness of programs in place to prohibit entry into and establishment of disease in the region. This approach differs from some of the numerical criteria specified by the Office

International des Epizooties (OIE) in its recommendations for a BSE minimal-risk country or zone. (The OIE recommendations are recognized by the World Trade Organization as international recommendations for animal disease control.)

For example, according to OIE recommendations, a ban on the feeding of ruminant protein to ruminants should have been in place for a minimum of 7 years for a region to meet the criteria for BSE minimal risk, even though there is a significant level of variability in current estimates of the BSE incubation period, which should govern the recommended length of time of an effective feed ban. According to this criterion, a region could fail to be classified as a BSE minimal-risk region because it had not had a feed ban in effect for the precise period of time specified, even if it has excelled in surveillance and control mechanisms. We believe it is more appropriate to evaluate the overall combined effect of the factors described below when assessing the BSE risk level of a region.

Definition of Bovine Spongiform Encephalopathy Minimal-Risk Region

We propose to define *bovine spongiform encephalopathy (BSE) minimal-risk region* in § 94.0 to mean a region that:

1. Maintains, and, in the case of regions where BSE was detected, had in place prior to the detection of BSE, risk mitigation measures adequate to prevent widespread exposure and/or establishment of the disease. Such measures include the following:

a. Restrictions on the importation of animals sufficient to minimize the possibility of infected ruminants being imported into the region, and on the importation of animal products and animal feed containing ruminant protein sufficient to minimize the possibility of ruminants in the region being exposed to BSE;

b. Surveillance for BSE at levels that meet or exceed OIE recommendations for surveillance for BSE; and

c. A ban on the feeding of ruminant protein to ruminants that appears to be an effective barrier to the dissemination of the BSE infectious agent, with no evidence of significant noncompliance with the ban.

2. In regions where BSE was detected, conducted an epidemiological investigation following detection of BSE sufficient to confirm the adequacy of measures to prevent the further introduction or spread of BSE, and continues to take such measures.

3. In regions where BSE was detected, took additional risk mitigation measures, as necessary, following the BSE outbreak based on risk analysis of the outbreak, and continues to take such measures.

Each element of this definition is explained below.

1. The region maintains, and, in the case of regions where BSE was detected, had in place prior to the detection of BSE, risk mitigation measures adequate to prevent widespread exposure and/or establishment of the disease.

This factor is important in determining those regions in which a BSE outbreak is unlikely to occur, or, if an outbreak does occur, in which it is likely to be limited. If a region maintains controls designed to minimize BSE introduction or exposure of animals, and, in those regions where BSE has been detected, if the region had such controls in place at the time of detection, it is more likely to present minimal risk than a region that does not have such controls in place. According to our definition of a BSE minimal-risk region, such measures would include importation restrictions, surveillance, and a feeding ban, as follows:

1a. Restrictions on the importation of animals sufficient to minimize the possibility of infected ruminants being imported into the region, and on the importation of animal products and animal feed containing ruminant protein sufficient to minimize the possibility of ruminants in the region being exposed to BSE.

This factor addresses whether the region faces a high risk of initial or recurrent BSE outbreaks from multiple importations of animals or products that may spread BSE. In those regions in which BSE has been detected, it addresses whether the region's BSE outbreak was more likely the result of a point failure in its import controls or possible exposure prior to the implementation of such import controls. Because the incubation period for BSE is generally measured in years, the finding of a case of BSE reflects an exposure that occurred several years in the past.

A region that has prohibited the importation of high-risk animals and products from regions that are affected with or pose an undue risk of BSE will have minimized its possible exposure to the disease. Conversely, a region that continues to import high-risk commodities until a case of BSE is diagnosed has continued exposure and presents a more significant risk. Whether commodities are considered low-risk or high-risk can be based on the commodities' inherent lack of risk, the low risk level of the exporting region, and/or controls on the movement and use of the commodities after entry.

1b. Surveillance for BSE at levels that meet or exceed OIE recommendations for surveillance for BSE.

This factor addresses whether BSE outbreaks are or would be likely to be quickly and reliably identified in a region, helping support a minimal-risk designation, or whether lack of effective surveillance suggests the possibility that BSE-infected animals may be overlooked and the scale of a BSE problem may be greater than is officially recognized.

As noted above, the OIE recommendations are recognized by the World Trade Organization as international recommendations for animal disease control. The OIE Code provides guidelines for surveillance and monitoring systems for BSE, identifying the minimum number of annual investigations recommended based on the adult cattle population of a country.

1c. A ban on the feeding of ruminant protein to ruminants that appears to be an effective barrier to the dissemination of the BSE infectious agent, with no evidence of significant noncompliance with the ban.

The primary source of BSE infection appears to be feed contaminated with the infectious agent. Scientific evidence [1] shows that feed contamination results from the incorporation of ingredients that contain ruminant protein derived from infected animals. Standard rendering processes do not completely inactivate the BSE agent. Therefore, rendered protein such as meat-and-bone meal derived from infected animals may contain the infectious agent. Bans prohibiting incorporation of mammalian or ruminant protein into ruminant feed are imposed to mitigate risk.

This factor distinguishes between regions with effective feed bans and those without them. In a region in which BSE has been detected, if an animal with BSE was born after a feed ban was implemented, it is a sign that the feed ban may not be effectively enforced.

2. In a region in which BSE has been detected, the region conducted an

[1] Wilesmith, J.W., Wells, G.A.H., Cranwell, M.P., and Ryan, J.B.M.; 1988; Bovine spongiform encephalopathy; epidemiological studies; Veterinary Record; 123, pg 638–644.

Wilesmith, J.W., Ryan, J.B.M, and Atkinson, M.J.; 1991; Bovine spongiform encephalopathy; epidemiological studies of the origin; Veterinary Record; 128, pg 199–203.

Wilesmith, J.W., Ryan, J.B.M, and Hueston W.D.; 1992; Bovine spongiform encephalopathy: Case control studies of calf feeding practices and meat-and-bone meal inclusion in proprietary concentrates; Res Vet Sci; 52, pg 325–331.

epidemiological investigation following detection of BSE sufficient to confirm the adequacy of measures to prevent the further introduction or spread of BSE, and continues to take such measures.

This factor addresses whether a region adequately investigates a case of BSE to determine if any of the risk factors have changed. If there has been any significant change in risk factors, there might be the possibility of increased incidence of BSE. Such an investigation would include, at the minimum, a traceback from the BSE-infected animal to determine possible herds of origin of the animal, a traceforward of any animals that moved from the BSE-affected herd, a traceforward of feed or rendered material that was derived from the carcass of the infected animal, and an investigation to determine the most likely source of the animal's exposure to BSE.

3. In a region in which BSE has been detected, the region took additional risk mitigation measures, as necessary, following the BSE outbreak based on risk analysis of the outbreak, and continues to take such measures.

This factor addresses whether a region implements all necessary risk mitigation measures to prevent further exposure to BSE. It distinguishes between those regions that thoroughly analyze their situation and address any problems from those that do not take mitigation measures and thus prolong possible exposure to BSE. Depending on the conclusions of the risk analysis conducted following the diagnosis of BSE, additional risk mitigation measures could include a broad eradication program, increased surveillance, or additional import restrictions.

Evaluating Canada as a BSE Minimal-Risk Region

We considered the above factors in combination in evaluating whether Canada qualifies as a BSE minimal-risk region, and discuss below the actions Canada took and continues to take regarding each of the factors.

Import Restrictions

Canada has maintained stringent import restrictions since 1990,[2] prohibiting the importation of live ruminants and most ruminant products from countries that had not been recognized as free of BSE by either the United States, Canada, or Mexico, which have an agreement to recognize country evaluations conducted by any of the three countries, using the same standards. Canada prohibited the importation of live cattle from the United Kingdom and the Republic of Ireland starting in 1990, and subsequently applied the same prohibitions to other countries as those additional countries identified native cases of BSE. In 1996, Canada made this policy even more restrictive and prohibited the importation of live ruminants from any country that had not been recognized as free of BSE. Some animals were imported into Canada from high-risk countries prior to the imposition of these import restrictions. A total of 182 cattle were imported into Canada from the United Kingdom between 1982 and 1990. Similar to actions taken in the United States, efforts were made in Canada to trace these animals. In late 1993, after Canada identified a case of BSE in one of the imported bovines, all cattle imported from the United Kingdom or the Republic of Ireland that remained alive at that time were killed.

Import restrictions have also been imposed on ruminant products, including import restrictions on meat-and-bone meal that have been in place since 1978. In general, Canada has prohibited the importation of most meat-and-bone meal from countries other than the United States, Australia, and New Zealand. Limited amounts of specialty products of porcine or poultry origin were allowed to be imported into Canada under permit for use in aquaculture feed products. No meat-and-bone meal for livestock feed-associated uses has been imported, except from the United States, Australia, and New Zealand.

Surveillance

Canada has conducted surveillance for BSE since 1992. The OIE Code, Appendix 3.8.4, provides guidelines for surveillance and monitoring systems for BSE, identifying the minimum number of annual investigations recommended based on the adult cattle population of a country. To meet this recommendation, Canada would have to test a minimum of 336 samples annually, based on a population of 5.5 million adult cattle. Canada exceeds this recommendation, and has tested more than this minimum number of samples for the past 7 years. Additionally, Canada exceeds OIE recommendations by conducting active targeted surveillance. (Active targeted surveillance involves sampling animals with risk factors for BSE, even if the animals have not shown clinical signs of disease.)

Feed Ban

Canada implemented a feed ban in 1997 that prohibits the feeding of most mammalian protein to ruminants. This ban exceeds what we consider the minimal necessary measure of banning the feeding of ruminant material to ruminants. Under the ban in Canada, mammalian protein may not be fed to ruminants, with certain exceptions. These exceptions include pure porcine or equine protein, blood, milk, and gelatin. The feed ban is essentially the same as the feed ban in place in the United States.

APHIS believes the length of the feed ban in Canada is sufficient to classify that country as a minimal-risk region for BSE. In comparison, classification as a minimal-risk country or zone by OIE criteria requires that a feed ban be in place for 8 years. This value may be set at a conservative level to account for the wide range that has been reported for the incubation period of BSE. Because of the variability in the incubation period for BSE, APHIS chose not to specify an amount of time that a feed ban needed to be in place in a minimal-risk region. Rather, we considered the sum total of the control mechanisms (*e.g.,* effectiveness of surveillance, import controls, and feed ban) in place at the time of the diagnosis of BSE and the actions taken subsequently (*e.g.,* epidemiological investigations and depopulation), thereby allowing the actions Canada took with regard to the other factors to compensate for a shorter feed ban. As an example, as discussed above, the level of surveillance in Canada, and the fact that it has been active and targeted, has exceeded OIE recommendations.

Canadian Government authorities inspect rendering facilities, feed manufacturers, and feed retailers to ensure compliance with the feed ban. Rendering facilities are regulated under an annual permit system, and compliance with the regulations is verified through at least one inspection each year. Feed manufacturers or mills, feed retailers, and farms have been inspected on a routine basis. These inspections have shown a high level of compliance. As noted above, Canada has maintained an effective ban on feeding mammalian protein to ruminants, with requirements similar to the feed ban in place in the United States, since 1997. The animal in which BSE was diagnosed in May 2003 was an 6-year-old native-born beef cow in the Province of Alberta that was born before the implementation of the feed ban.

[2] Canadian Food Inspection Agency (CFIA), December 2002; Risk Assessment on Bovine Spongiform Encephalopathy in Cattle in Canada.

Morley, R.S., Chen, S., Rheault, N.; 2003; Assessment of the risk factors related to bovine spongiform encephalopathy; Rev. Sci. Tech. OIE; 22(1); pg 157–178.

Epidemiological Investigation

Canada conducted an extensive epidemiological investigation after the one case of BSE in May 2003. This investigation included detailed tracebacks to identify possible herds of origin of the infected animal, traceforwards from the infected herd, and traceforwards of any possible feed or rendered material derived from the carcass of the infected animal. Fifteen premises were quarantined as part of the traceback and traceforward investigations, and cattle on the quarantined premises were slaughtered. Additionally, cattle that were determined to have moved from a quarantined herd to another herd were slaughtered.

The investigation included any possible exposure from the use of rendered material or feed that could have been derived from the carcass of the infected cow. Using a broad definition to include all possible exposures, the rendered material could have been distributed to approximately 1,800 sites, including sites with no ruminants. These included 600 facilities that receive bulk shipments of either rendered protein or feed, and 1,200 individual producers or consumers who purchased finished feed by the bag. A survey was conducted of those entities that were at some risk of having received such rendered material or feed. This survey suggested that 99 percent of the sites surveyed experienced either no exposure of cattle (96 percent of the sites) to the feed or only incidental exposure (3 percent of the sites). The remaining 1 percent represented limited exposures, such as cattle breaking into feed piles, sheep reaching through a fence to access feed, and a goat with possible access to a feed bag.

The investigation included a consideration of several possibilities for the source of the infected cow's exposure to BSE. Although it has not been confirmed, it is assumed, based on the age of the cow, that the infected cow was exposed through contaminated feed. The infected animal was born prior to the implementation of a feed ban within Canada and could have had exposure to contaminated feed at an early age.

The renderers and feed mills associated with the investigation had records of good compliance with the feed ban. The on-farm inquiries demonstrated a very small probability of exposure of ruminants to prohibited feed. Although the possibility exists that the original source of the BSE agent could have been imported, there was no evidence that this was due to an illegal import. The BSE agent could have been from animals imported from the United Kingdom prior to import restrictions established in 1990. The surveillance program was sufficient to confirm the continued existence of adequate measures to prevent further introduction or spread of BSE.

Additional Risk Mitigation Measures

Following the detection of BSE in Canada, a broad eradication program was followed during the epidemiological investigation, in which more than 2,700 head of cattle were culled. As part of the culling activity, more than 2,000 animals 24 months of age or older were tested (those animals less than 24 months of age were not tested), with no further evidence of BSE found in any of these animals.

Importation of Ruminant Commodities From a BSE Minimal-Risk Region

Because we believe regions, such as Canada, that qualify as BSE minimal-risk regions based on the factors described above, would pose a minimal risk of introducing BSE into the United States, we believe it is warranted to allow the importation from such regions of some animals and animal products and byproducts that are prohibited importation from regions in which BSE exists and regions that present an undue risk of BSE. However, because BSE is a difficult disease to define experimentally with precision, epidemiological evidence suggests that risk factors are specific to the commodity, and multiple risk sources may be associated with a given commodity, we believe it is necessary to also apply individual risk mitigation measures to specified commodities intended for importation from BSE minimal-risk regions.

For example, as noted above and discussed further below, contaminated feed appears to be the most likely pathway of BSE transmission. However, it has not been established with certainty that contaminated feed is the only pathway. Furthermore, we cannot assume complete compliance with a ban on the feeding of ruminant protein to ruminants, which is the most effective mitigation for contaminated feed. Therefore, we believe it is necessary to apply certain other mitigation measures, in addition to implementation of a feed ban, to reduce the risk of the introduction of BSE into the United States. Each of these proposed mitigation measures is discussed below.

We are proposing to add the conditions for importing specified ruminant commodities from a BSE minimal-risk region to the regulations in 9 CFR parts 93, 94, and 95. The measures appropriate for specific commodities intended for importation would be determined by the presence or absence of factors that make it more or less likely the commodity might be contaminated or infected with the BSE. These factors are discussed in the following paragraphs.

Feed Source and Exposure

Oral ingestion of feed contaminated with the abnormal BSE prion protein is the only documented route of field transmission of BSE.[3] Thus, animals that have not ingested contaminated feed are unlikely to harbor the agent, so feed exposure influences risk. Animals, and the products derived from those animals, are unlikely to have infectious levels of the agent and will present a lower risk if the animals were (a) born after the implementation of an effective feed ban or (b) not fed risk material (*e.g.,* wild animals or farmed animals that are not fed feeds containing meat-and-bone meal).

The risks associated with feed source and exposure can be mitigated by accepting for import only animals or products derived from animals that have not been fed commercial feed that is likely to be contaminated with infectious levels of the agent.

Animal Age

Levels of infectious agent in certain tissues vary with the age of an animal, so the age of the animal influences risk. Pathogenesis studies, where tissues obtained from orally infected calves were assayed for infectivity, have illustrated this.[4] Infectivity was not detected in most tissues until at least 32 months post-exposure. The exception to this is the distal ileum (a part of the intestines), where infectivity was

[3] Prince, M.J., *et al.*; 2003; Bovine Spongiform Encephalopathy; Rev. sce. tech. OIE; 22 (1), pg 37–60.

Wilesmith *et al.*; 1988; 1991; 1992.

[4] Wells, G.A.H., *et al.*; 1994; Infectivity in the ileum of cattle challenged orally with bovine spongiform encephalopathy; Veterinary Record; 135 (2), pg 40–41.

Wells, G.A.H., *et al.*; 1998; Preliminary observations on the pathogenesis of experimental bovine spongiform encephalopathy (BSE): An update; Veterinary Record; 142, pg 103–106.

European Union Scientific Steering Committee (EU SSC), 2002; Update of the opinion on TSE infectivity distribution in ruminant tissues (initially adopted by the Scientific Steering Committee at its meeting of 10–11 January 2002 and amended at its meeting of 7–8 November 2002) following the submission of (1) a risk assessment by the German Federal Ministry of Consumer Protection, Food, and Agriculture, and (2) new scientific evidence regarding BSE infectivity distribution in tonsils; European Commission, Scientific Steering Committee, Health and Consumer Protection Directorate General.

confirmed from the experimentally infected cattle as early as 6 months post-exposure. In this proposed rule, we take these findings into account when establishing measures to mitigate the risk of infectious levels of the BSE agent being present in animals and animal products imported from a BSE minimal-risk region. For example, with regard to bovines, because BSE infectivity has not been found in most bovine tissues until at least 32 months post-exposure, we believe that by requiring that bovines imported into the United States from BSE minimal-risk regions be less than 30 months of age, the risk of the BSE agent being present at infectious levels in most tissues in the animal is minimized. The 30-month age limit is accepted internationally in BSE standards set by various countries and is consistent with OIE recommendations. Similarly, the proposed regulations would require that imported meat from bovines be derived from animals less than 30 months of age when slaughtered. However, because of evidence that the BSE agent may be present at infectious levels in the distal ileum of infected bovines as early as 6 months post-exposure, we would require that the intestines of bovines imported into the United States be removed at slaughter, and that meat imported from bovines from BSE minimal-risk regions be derived from animals from which the intestines were removed at slaughter.

Although the risks associated with age can be mitigated by accepting for import only animals or commodities derived from animals of an age where even high risk tissues (discussed below) are unlikely to have infectious levels of the BSE agent, restrictions applicable to age alone may not always be possible or sufficient. For instance, in the case of wild cervids, because it is not always possible to determine the age of the cervids, we believe that alternative risk measures, discussed below, are necessary.

Research demonstrates that the incubation period for BSE is apparently linked to the infectious dose received—*i.e.,* the larger the infectious dose received, the shorter the incubation period (EU SSC 2002). While some cases of BSE have been found in animals less than 30 months of age, these are relatively few and have occurred primarily in countries with significant levels of circulating infectivity (*i.e.,* where infected ruminants are used for feed for other ruminants, which in turn become infected). The conditions, discussed above, for qualifying for a BSE minimal-risk region guard against such circulating infectivity.

Similar observations regarding the importance of the size of the infectious dose were made in sheep and goats (EU SSC 2002). In these animals, infectivity could not be demonstrated in most tissues until at least 16 months post-exposure to the agent.

In summary, infected cattle over 30 months of age or sheep and goats over 16 months of age may have levels of the abnormal prion in affected tissues that are sufficient to infect other animals fed protein derived from these tissues. Infected animals less than 30 months of age or sheep and goats less than 16 months of age are unlikely to have infectious levels of the prion protein (EU SSC 2002; Wells, *et al.*; 1994; Wells, *et al.*; 1998).

Animals that were born before the feed ban but were not fed risk material, such as wild ruminants or domestic livestock in the minimal-risk region that were fed solely materials that are extremely unlikely to contain the infectious agent, are unlikely to contain infectious levels of BSE.

Tissue Localization

Some bovine tissues have demonstrated infectivity, whereas others have not. Tissues that have demonstrated infectivity, and thus are likely to contain the infectious agent in infected cattle, are brain, tonsil, spinal cord, eyes, trigeminal ganglia, dorsal root ganglia, and distal ileum. (Please note that, as discussed above, the age of an animal is a key factor in whether the animal is likely or unlikely to be infected. Cattle less than 30 months of age unlikely to be infected with BSE, and, therefore, even the tissues listed above, except for the distal ileum, from such animals are unlikely to contain the infectious agent.) Affiliated tissues or structures such as skull or vertebral column are considered risk materials because of the difficulty in separating out small tissues such as dorsal root ganglia from the vertebral column. Possibilities for cross contamination from risk materials must be considered also. However, even cattle carrying the infectious agent are unlikely to carry that agent in tissues that have not demonstrated infectivity (*e.g.,* muscle, liver, skin, hide, milk, embryos) or products derived from these tissues [5] (also, Wells, *et al.*; 1994; Wells, *et al.*; 1998).

The risks associated with tissue localization can be mitigated by accepting only tissues that are unlikely to have infectious levels of the agent, due to the nature of the tissue or the age of the animal (in cattle under 30 months of age, only the distal ileum is such a risk material), or commodities derived from those tissues.

Source Species

Tissue distribution of the agent varies with species. Results from experimental infections of sheep have shown that the BSE prion is distributed more widely in sheep tissues than in cattle.[6] This distribution is similar to the distribution of scrapie (a transmissible spongiform encephalopathy present in the United States) infections in sheep. In these infections, the agent may be found in the lymphoreticular system and in peripheral nerves (Foster *et al.*; 1996; Foster *et al.*; 2001).

However, no natural infections with BSE have yet been confirmed in sheep, although testing is ongoing in Europe. Similarly, no natural infections have been confirmed in goats, although actual experiments have not been conducted in the species. In the absence of actual data, distribution of the agent in goat tissues has been assumed to be similar to distribution of the agent in sheep tissues, based on the fact that scrapie acts very similarly in sheep and goats.

Similarly, natural infection of cervids (deer and elk species) with BSE has not been documented, and no challenge studies on cervid susceptibility to BSE have been conducted. In the absence of actual data, it is assumed that distribution of any BSE agent in cervid tissues would be similar to the distribution of the chronic wasting disease agent in cervid tissues, which is a naturally occurring transmissible spongiform encephalopathy.

Prevalence of BSE

The possible prevalence of disease in the region of origin will influence the risk. Prevalence of the disease will be lower in a country with adequate prevention and control measures; thus, animals from such a region will be at lower risk of being exposed to infection. The risks associated with prevalence can be mitigated by accepting commodities only from a country with low prevalence that can be classified as minimal or low risk.

[5] Wrathall, A.E., *et al.*; 2002; Studies of embryo transfer from cattle clinically affected by bovine spongiform encephalopathy (BSE); Veterinary Record; 150; pg 365–378.

[6] Foster, J.D., *et al.*; 1996; Detection of BSE infectivity in brain and spleen of experimentally infected sheep; Veterinary Record; 139; pg 912–915.

Foster, J.D., *et al.*; 2001; Distribution of the prion protein in sheep terminally affected with BSE following experimental oral transmission; J. Gen Virol.; 82; pg 2319–2326.

Importation of Live Ruminants

We believe the categories of ruminants discussed below from BSE minimal-risk regions are unlikely to be a source of infectivity of the BSE agent if the conditions specified below are met, and we propose to allow for such importation under those conditions in a new § 93.436. In each case where we are proposing to allow importation, the animals would have to arrive through a designated port of entry as listed in current § 93.403(b) (designated ports of entry for ruminants from Canada), or through some other port that has been designated as a port of entry by the Administrator under § 93.403(f). If, in the future, we add other countries to the list of BSE minimal-risk regions in § 94.18(a)(3), we would adjust the list of designated ports accordingly.

In those cases where a ruminant is imported into the United States, and subsequently does not meet one of the conditions set forth in § 93.436 (*e.g.,* animals that die before reaching the slaughtering establishment; animals that are moved from a feedlot in this country to slaughter after they are 30 months of age), the regulations would provide that the animal must be disposed of in a manner approved by the Administrator.

Bovines Less Than 30 Months of Age for Immediate Slaughter

Section 93.436, paragraph (a), would allow the importation of bovines for immediate slaughter under the following conditions:

- The bovines are less than 30 months of age and are moved directly as a group from the port of entry to a recognized slaughtering establishment (the definition of recognized slaughtering establishment is set forth in § 93.400) for immediate slaughter as a group. (Under the definition of *immediate slaughter* in § 93.400, the bovines must be slaughtered within 2 weeks of the date of entry. In § 93.400, we would add a definition of *as a group* to mean collectively, in such a manner that the identity of the animals as a unique group is maintained.)
- The bovines are not known to have been fed ruminant protein, other than milk protein, during their lifetime.
- The bovines are accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the region of origin, or issued by a veterinarian designated or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so, that certifies the above conditions have been met.
- The bovines are moved as a group from the port of entry to the slaughtering establishment in conveyances sealed at the port of entry with seals of the United States Government, which are broken only at the slaughtering establishment by a USDA representative, and the shipment is accompanied by an APHIS Veterinary Services (VS) Form 17–33, Animals Imported for Immediate Slaughter.
- At the slaughtering establishment, the bovines are slaughtered as a group and each animal's intestines are removed.
- The intestines removed from the bovines are disposed of in a manner approved by the Administrator.

We believe the conditions described above, combined with the fact the exporting region is one of minimal risk for BSE, make it very unlikely that meat derived from bovines meeting those conditions would contain the BSE agent. The requirement that the bovines imported from a BSE minimal-risk region be less than 30 months of age would make it unlikely they would have infectious levels of the prion protein. The requirements that the bovines be moved to slaughter in a sealed conveyance and be slaughtered as a group are designed to ensure that the animals are not diverted while being moved to slaughter and that the intestines are removed at slaughter from all bovines imported from the minimal-risk region. If any bovines not from the minimal-risk region are commingled with the group of bovines from the minimal-risk region at the slaughtering establishment, then those added animals would be treated as if they were from the minimal-risk region and their intestines would have to be removed and disposed of in accordance with our proposed provisions. The requirement that the bovines be slaughtered at a recognized slaughtering establishment (as defined in § 93.400) would ensure the animals are slaughtered at a facility approved by APHIS where slaughtering operations are regularly carried on under Federal or State inspection. The requirement that the intestines be removed from the animal at slaughter and be disposed of in a manner approved by the Administrator would minimize the possibility that such materials will be fed to ruminants. We believe it is necessary to provide the Administrator discretion in the specific means of disposal used, to allow for the use of different but equally effective methods of disposal.

Bovines Less Than 30 Months of Age Moved to a Designated Feedlot and Then to Slaughter

We would apply the slaughtering conditions described above to bovines imported for slaughter in the United States after first being contained at a designated feedlot in this country. However, instead of being moved directly from the port of entry to a recognized slaughtering establishment, such animals would first be moved directly, as a group, to a designated feedlot for feeding, and then directly to a recognized slaughtering establishment. In § 93.400, we would define *designated feedlot* to mean a feedlot indicated on the declaration required under § 93.407 as the destination of the ruminants imported into the United States. Under current § 93.407, the importer of ruminants (or the importer's agent) must present a declaration at the port of entry that provides information about the ruminants, their origin, and their destination. For identification purposes, prior to being imported into the United States, each bovine would have to have been tattooed inside one ear with letters identifying the exporting country. Bovines from Canada would have to be tattooed with the letters ''CAN.''

Therefore, § 93.436(b) would allow the importation of bovines for feeding under the following conditions:

- The bovines are not known to have been fed ruminant protein, other than milk protein, during their lifetime and are less than 30 months of age when imported into the United States.
- The inside of one ear on each animal is permanently and legibly tattooed with letters identifying the exporting country.
- The bovines are accompanied by authorized official certification, as described above, that the above conditions have been met.
- The bovines are moved directly from the port of entry as a group to the designated feedlot and the shipment is accompanied by an APHIS Form VS 1–27, Permit for Movement of Restricted Animals.
- The bovines are moved directly from the designated feedlot to a recognized slaughtering establishment for slaughter, where each animal's intestines are removed. The shipment is accompanied by APHIS Form VS 1–27.
- The intestines removed from the bovines are disposed of in a manner approved by the Administrator.
- The bovines are less than 30 months of age when slaughtered.

Unlike the requirement for bovines moved directly to immediate slaughter, we would not require that the animals

be moved from the port of entry to the designated feedlot in sealed conveyances. The only region we are proposing at this time to classify as BSE minimal-risk is the country of Canada. Under the current APHIS regulations and policy, bovines imported from Canada for movement directly to immediate slaughter do not have to be accompanied by the health certificate required under § 93.405 that attests to the animal's health history with regard to various diseases and pests. However, the bovines must be moved to slaughter in a sealed conveyance. (**Please note:** The regulations in part 93 use the term ''cattle'' rather than ''bovines.'' However, in § 93.400, *cattle* is defined as animals of the bovine species.) Because of the requirement for direct movement to slaughter in a sealed conveyance, there is little danger the bovines will be diverted on their way to the slaughtering establishment. Those requirements would remain unchanged by this proposed rule, although animals for immediate slaughter would have to be accompanied with the certification with regard to BSE specified in this proposal.

Under the current regulations, however, bovines imported from Canada for other than immediate slaughter do have to be accompanied by a certificate attesting to their health history with regard to various diseases, in order to ensure they do not spread such diseases to other livestock in this country. Because of their acceptable health history, it has not been necessary to require that the animals be moved in a sealed conveyance. This requirement for a health certificate would remain in place for bovines imported from Canada for feeding before slaughter (and be joined with the certification with regard to BSE specified in this proposal). Because of this health certification, and because, with regard to BSE, the bovines would have to be tattooed with the letters CAN, possible diversion is not an issue and we do not consider it necessary to begin to require that feeder bovines be moved from the U.S. port of entry to the designated feedlot in a sealed conveyance.

Additionally, we are not requiring that the bovines be moved from the designated feedlot to slaughter as a group. A shipment of bovines that arrives at a feedlot may contain animals of varying ages. Some will be ready for shipment to slaughter before others. However, we would require that all animals moved from the designated feedlot be moved directly to slaughter, where they would be identifiable as a shipment from a minimal-risk region by the required ear tattoo.

Sheep or Goats Less Than 12 Months of Age for Immediate Slaughter

Section 93.436, paragraph (c), would allow the importation of sheep or goats under the following conditions:

- The sheep or goats are less than 12 months of age at the time of importation.
- The sheep or goats are not known to have been fed ruminant protein, other than milk protein, during their lifetime.
- The sheep or goats are accompanied by authorized official certification, as described above, that the above conditions have been met.
- The sheep or goats are moved directly from the port of entry as a group to a recognized slaughtering establishment in conveyances sealed at the port of entry with seals of the United States Government, which are broken only at the slaughtering establishment by a USDA representative, and must be slaughtered as a group. The shipment is accompanied by an APHIS Form VS 17–33.

Although there is no naturally occurring BSE infection of sheep and goats, the species can be infected with the BSE agent experimentally. However, in view of the relatively young age of the sheep and goats that would be allowed importation (we would allow importation of sheep and goats only of 12 months of age or less, the industry standard for commercial shipments of such animals), the likelihood that these sheep or goats could provide a source of infection is extremely low.

Sheep or Goats Less Than 12 Months of Age Moved to a Designated Feedlot and Then To Slaughter

We would apply the slaughtering conditions described above to sheep or goats imported for slaughter in the United States after first being contained at a designated feedlot in this country. However, instead of being moved directly from the port of entry to a recognized slaughtering establishment, such animals would be moved to a designated feedlot, and then directly to a recognized slaughtering establishment. For identification purposes, prior to being imported into the United States, each sheep and goat would have to have been tattooed inside one ear with letters identifying the exporting country. Sheep and goats from Canada would have to be tattooed with the letters ''CAN.''

Therefore, § 93.436(d) would allow the importation of sheep and goats under the following conditions:

- The sheep and goats are not known to have been fed ruminant protein, other than milk protein, during their lifetime and are less than 12 months of age at the time of importation into the United States.
- The inside of one ear on each animal is permanently and legibly tattooed with letters identifying the exporting country.
- The sheep or goats are accompanied by authorized official certification, as described above, that the above conditions have been met.
- The sheep or goats are moved directly from the port of entry as a group to a designated feedlot and the shipment is accompanied by an APHIS Form VS 1–27.
- The sheep or goats are moved directly from the designated feedlot to a recognized slaughtering establishment for slaughter. The shipment is accompanied by APHIS Form VS 1–27.
- The sheep and goats are less than 12 months of age when slaughtered.

Cervids for Immediate Slaughter

Section 93.436, paragraph (e), would allow the importation of cervids under the following conditions:

- The cervids were members of a herd in which surveillance for transmissible spongiform encephalopathies (TSE's) was conducted by appropriate authorities according to national standards or standards of the region itself if the region is a jurisdiction that has effective oversight of normal animal movements into, out of, or within the region and that, in association with national authorities if necessary, has the responsibility for controlling animal disease locally.
- The herd is not known to have been infected with or exposed to a TSE.
- The cervids were born after the implementation of a ban on feeding of ruminant protein to ruminants.
- The cervids were not known to have been fed ruminant protein, other than milk protein, during their lifetime.
- The cervids are accompanied by authorized official certification, as described above, that the above conditions have been met.
- The cervids are moved from the port of entry as a group directly to a recognized slaughtering establishment in conveyances sealed at the port of entry with seals of the United States Government, which are broken only at the slaughtering establishment by a USDA representative. The cervids must be slaughtered as a group. The shipment is accompanied by an APHIS Form VS 17–33.

As ruminants, cervids are subject to import restrictions because of BSE. We believe that the above conditions are necessary for the importation of cervids intended for immediate slaughter, because, although there have been no

confirmed cases of BSE in cervids, it is possible that they are susceptible to BSE. To date, there have been no challenge studies for BSE in cervids (*i.e.*, studies in which cervids are intentionally exposed to the BSE agent) to indicate the level of susceptibility of cervids to BSE. Given the stringent controls described above, however, and the fact that there have been no confirmed cases of BSE in cervids, we believe the likelihood BSE would be introduced into the United States through cervid importations is extremely low, and we do not believe that mitigation measures other than those listed above are necessary.

One of the requirements listed above is that the cervids have been members of a herd in which surveillance for TSE's was conducted by appropriate authorities according to national or regional standards. At present, the TSE program for cervids in Canada, the one region we are proposing to classify as BSE-minimal risk at this time, is one that monitors for chronic wasting disease (CWD). However, all sampling done to monitor for CWD would identify animals that might be affected with other TSE's such as BSE.

Ruminant Products From Minimal-Risk Regions

We are proposing to add a new § 94.19 to list those ruminant products that would be allowed importation from a BSE minimal-risk region and to set forth the conditions for such importation.

In evaluating the risk that ruminant products imported into the United States might present, the same factors affecting the BSE risk of the live animals from which the products are derived are applicable. Additionally, other factors must be considered due to the processing the products undergo. Slaughter methods and the removal of risk material from source animals in the exporting region affect the level of risk associated with meat and meat products from those animals, as do intended use and the demonstrated likelihood of the animal product in question to contain the BSE agent.

Similar to the slaughter requirements for ruminants imported live into the United States for immediate slaughter, it would be necessary to require that most ruminant products intended for importation into the United States from a BSE minimal-risk region come from animals from which intestines were removed during processing. In some cases, however, because of other mitigating factors, such as if no natural infection has been observed in the type of animal, we do not believe it would be necessary to require that the intestines have been removed from the animal from which the product is derived.

We believe that the importation of the categories of meat and other edible products from ruminants from BSE minimal-risk regions discussed below would be unlikely to contain the BSE agent provided the following conditions are met, as certified to on an original certificate issued by a full-time salaried veterinary officer of the national government of the region of origin, or issued by a veterinarian designated or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so.

As one of the conditions for bringing the commodity into the United States, we are proposing that the meat and edible products, if arriving at a land border port, arrive only at one of the ports we would list in new § 94.19(k). At this time, the only region that would be listed in § 94.18(a)(3) as a BSE minimal-risk region would be the country of Canada. Because the type of shipments that would require inspection under this proposed rule have not been subject to inspection in recent years when arriving at land border ports from Canada, we believe it is advisable to limit their arrival by land from Canada to those U.S. ports staffed with personnel fully trained in the inspection of such shipments.

We would list the following as designated land border ports in § 94.19(k): Eastport, ID; Houlton, ME; Detroit (Ambassador Bridge), Port Huron, and Sault St. Marie, MI; International Falls, MN; Sweetgrass, MT; Alexandria Bay, Buffalo (Lewiston Bridge and Peace Bridge), and Champlain, NY; Pembina and Portal, ND; Derby Line and Highgate Springs, VT; and Blaine (Pacific Highway and Cargo Ops), Lynden, Oroville, and Sumas (Cargo), WA. If, in the future, we add other countries to the list of BSE minimal-risk regions in § 94.18(a)(3), we would adjust the list of designated ports accordingly.

Fresh (Chilled or Frozen) Meat From Bovines Less Than 30 Months of Age

Section 94.19, paragraph (a), would allow the importation of meat under the following conditions:

- The meat is fresh (chilled or frozen) meat from bovines less than 30 months old at the time of slaughter that are not known to have been fed ruminant protein, other than milk protein, during their lifetime.
- The bovines from which the meat is derived were slaughtered in a slaughtering establishment that slaughters only bovines less than 30 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the meat with products not eligible for importation into the United States.
- The intestines of the bovines were removed at slaughter.
- The product qualifies as meat according to the definition of meat set forth in USDA's Food Safety and Inspection Service's (FSIS) regulations at 9 CFR 301.2.
- The shipment is accompanied by authorized official certification, as described above, that the above conditions have been met.

We would require that the commodity meet the definition of ''meat'' according to the FSIS regulations to ensure that, if imported as ground meat, it has not been combined with meat that might contain high-risk tissues from high-risk animals. Under the FSIS definition in 9 CFR 301.2, to be considered ''meat,'' product that undergoes mechanical separation and meat recovery from the bones of livestock must be processed in such a way that the processing does not crush, grind, or pulverize bones, so that bones emerge comparable to those resulting from hand-deboning and the meat itself meets the criteria of no more than 0.15 percent or 150 mg/100 gm of product for calcium (as a measure of bone solids content) within a tolerance of 0.03 percent or 30 mg. We are proposing to use this standard for the eligibility of meat from bovines (and, as indicated later, for meat from sheep and goats) to ensure that the product contains no mechanically separated meat that might contain high risk-tissues. (**Please note:** Except where the FSIS definition of *meat* is specifically referenced in proposed § 94.19(a)(3) with regard to meat from bovines, and in proposed § 94.19(e)(2) with regard to meat from sheep or goats or other ovines or caprines, the standard dictionary definition of meat is intended throughout this proposed rule.)

To avoid commingling or contamination of meat from bovines under 30 months of age with materials from older bovines, we would require that the slaughtering facility in the region of origin either slaughter only bovines less than 30 months of age or comply with an approved segregation process. Such segregation during

slaughtering could be accomplished, for instance, by slaughtering bovines over 30 months of age only at the end of the day on lines and with equipment dedicated exclusively to slaughtering such older animals.

Fresh (Chilled or Frozen) Whole or Half Carcasses of Bovines Less Than 30 Months of Age

Section 94.19, paragraph (b), would allow the importation of bovine carcasses under the following conditions:

- The products are fresh (chilled or frozen) whole or half carcasses derived from bovines that were less than 30 months of age when slaughtered and that are not known to have been fed ruminant protein, other than milk protein, during their lifetime.
- The bovines from which the carcasses are derived were slaughtered in a slaughtering establishment that slaughters only bovines less than 30 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling with products not eligible for importation into the United States.
- The intestines of the bovines were removed at slaughter.
- The shipment is accompanied by authorized official certification that the above conditions have been met.

Fresh (Chilled or Frozen) Bovine Liver

Section 94.19, paragraph (c), would allow the importation of fresh (chilled or frozen) bovine liver, provided the product is combined with no other product, is derived from bovines for which no air-injected stunning process was used at slaughter, and is accompanied by authorized official certification that the above conditions have been met. In and of itself, the liver is unlikely to contain infectious levels of the BSE agent, so we are not proposing to require that liver be derived from animals less than 30 months of age or not known to have been fed ruminant protein, other than milk protein, during their lifetime. However, we would prohibit the importation of liver derived from bovines for which an air-injected stunning process was used. The liver, because of its anatomical location and size of its blood vessels, is the organ that could potentially receive emboli or tissue fragments distributed in the animal due to the use of an air-injected stunning process. Because there would be no age limit on the bovines from which the liver is derived, we believe it is necessary to ensure that the liver be free of such potentially high-risk material.

Fresh (Chilled or Frozen) Bovine Tongues

Section 94.19, paragraph (d), would allow the importation of fresh (chilled or frozen) bovine tongues that meet the following conditions:

- The tongues are derived from bovines that were born after the implementation of an effective feed ban.
- The bovines are not known to have been fed ruminant protein, other than milk protein, during their lifetime.
- The tonsils of the bovines were removed at slaughter.
- The tongues are accompanied by authorized official certification that the above conditions have been met.

The tongue itself is unlikely to contain the BSE agent in animals of any age. However, because the tongue and the tonsils are connected, and the tonsils consist of tissue with demonstrated infectivity, we believe it is necessary to require that the tonsils have been removed from bovines greater than 30 months of age from which tongues for importation are derived. To eliminate the need to determine the exact age of the animals from which tongues are derived, we would require that the tonsils have been removed at slaughter from all bovines from which tongues intended for importation from a BSE minimal-risk region are derived.

Fresh (Chilled or Frozen) Meat of Sheep or Goats or Other Ovines or Caprines

Section 94.19, paragraph (e), would allow the importation of meat under the following conditions:

- The product is fresh (chilled or frozen) meat from sheep or goats or other ovines or caprines less than 12 months of age at the time of slaughter that are not known to have been fed ruminant protein, other than milk protein, during their lifetime.
- The animals from which the meat is derived were slaughtered in a slaughtering establishment that slaughters only sheep and/or goats or other ovines or caprines less than 12 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the meat with products not eligible for importation into the United States.
- The product qualifies as meat according to the definition of meat set forth in USDA's Food Safety and Inspection Service's (FSIS) regulations at 9 CFR 301.2.
- The shipment is accompanied by authorized official certification that the above conditions have been met.

Fresh (Chilled or Frozen) Carcasses of Ovines or Caprines

Section 94.19, paragraph (f), would allow the importation of fresh (chilled or frozen) carcasses of ovines and caprines under the following conditions:

- The carcasses are derived from ovines or caprines that were less than 12 months old when slaughtered and that are not known to have been fed ruminant protein, other than milk protein, during their lifetime.
- The ovines or caprines from which the carcasses were derived were slaughtered in a slaughtering establishment that slaughters only ovines and/or caprines less than 12 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the carcasses with products not eligible for importation into the United States.
- The carcasses are accompanied by authorized official certification that the above conditions have been met.

Hunter-Harvested Wild Ruminant Products

Section 94.19, paragraph (g), would allow the importation of hunter-harvested wild ruminant products under the following conditions:

- The product is meat or a dressed (eviscerated and the head is removed) carcass of a wild sheep, goat, cervid, or other ruminant;
- The meat or dressed carcass is intended for personal use, and the hunter provides proof to the U.S. Customs and Border Protection official that the animal was a legally harvested wild (not ranched) animal. Such proof will include the hunting license, tag, or equivalent;
- The game and wildlife service of the jurisdiction where the ruminant was harvested has informed the Administrator that the jurisdiction either: (1) Conducts no type of game feeding program, or (2) has complied with, and continues to comply with, the ban on the feeding of ruminant protein to ruminants in the BSE minimal-risk region.

Meat and meat products from wild animals not maintained on ranches or farms are unlikely to have ingested contaminated commercial feed and are unlikely to have infectious levels of the BSE agent. Also, the nature of hunter-harvested ruminant products to be used

for personal use makes it highly unlikely that the product will enter the commercial food chain for animals. (In § 94.0, we would add a definition of *personal use* to mean only for personal consumption or display and not distributed further or sold.) If the game and wildlife service of the jurisdiction where the ruminant was harvested has not informed the Administrator either that the jurisdiction conducts no game feeding program or has complied with, and continues to comply with, the feed ban, we would direct U.S. inspectors at the designated ports of arrival not to allow such hunter-harvested ruminant products from the jurisdiction to be imported into the United States.

Fresh (Chilled or Frozen) Meat of Cervids Either Farm-Raised or Harvested on a Game Farm or Similar Facility

Section 94.19, paragraph (h), would allow the importation of meat and meat products under the following conditions:

- The product is fresh (chilled or frozen) meat derived from cervids that were born after an effective feed ban was implemented, that were not known to have been fed ruminant protein, other than milk protein, during their lifetime, and that were members of a herd not known to be infected with or exposed to a transmissible spongiform encephalopathy.
- If the product is ground meat or sausage, it was derived either from all cervine meat or from cervine meat mixed with nonruminant meat.
- The shipment is accompanied by authorized official certification that the above conditions have been met.

No natural infection of BSE has been documented in cervids, and we believe there is a very low risk that any tissue in cervids is likely to contain the BSE agent. Therefore, we believe it is unnecessary to prohibit the importation of ground meat or sausage that is exclusively cervid meat or cervid meat and nonruminant meat. However, because it has not been proven that cervids are not susceptible to BSE, we believe it is necessary to require that the cervid meat and meat products be derived from cervids that were members of a herd not known to have been infected with or exposed to a transmissible spongiform encephalopathy.

Fresh (Chilled or Frozen) Meat From Wild-Harvested Caribou, Musk Ox, or Other Cervids

Section 94.19, paragraph (i), would allow the importation of meat under the following conditions:

- The meat is from wild caribou, musk ox, or other cervids harvested within a jurisdiction specified by the Administrator for which the game and wildlife service has informed the Administrator that the jurisdiction either: (1) Conducts no type of game feeding program, or (2) has complied with, and continues to comply with, the ban on the feeding of ruminant protein to ruminants in the BSE minimal-risk region.
- The cervids from which the meat is derived were either slaughtered in a slaughtering establishment that slaughters only cervids eligible for entry into the United States or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the meat with products not eligible for importation into the United States.
- The shipment is accompanied by authorized official certification that the above conditions have been met.

This meat differs from the meat described above under the heading ''Hunter-harvested wild ruminant products'' in that, although it is hunter-harvested, it is done so on a larger scale for commercial sale.

Gelatin

Section 94.19, paragraph (j), would allow the importation of gelatin from bones of bovines that were less than 30 months of age when slaughtered and that are not known to have been fed ruminant protein, other than milk protein, during their lifetime, provided the shipment is accompanied by authorized official certification that these conditions have been met.

Importation of Certain Tallow and Offal

Section 95.4 of the regulations currently restricts the importation of animal protein, tankage, fat, glands, tallow other than tallow derivatives, and serum from regions where BSE is known to exist or that present an undue risk of BSE. Of these products, we believe that certain tallow and offal could be imported from BSE minimal-risk regions under certain conditions with little likelihood of containing infectious levels of the BSE agent, and are proposing to amend § 95.4 to allow the importation of such materials. We do not have evidence at this time that the other products prohibited under § 95.4 could be imported with little likelihood of containing infectious levels of the BSE agent.

As one of the conditions for importation, the tallow and offal, if arriving at a U.S. land border port, would have to arrive at one of the ports we would list in new § 94.19(k).

Tallow

In the case of tallow, we would require that it contain less than 0.15 percent protein and be obtained from bovines less than 30 months of age when slaughtered. This product would be considered low risk because it is primarily lipid material with a minimal cellular component. When it is derived from low-risk bovines and the level of protein is low, the material would be unlikely to contain prion protein.

Section 95.4, paragraph (f), would allow the importation of tallow under the following conditions:

- The tallow is composed of less than 0.15 percent protein.
- The tallow was derived from animals that were less than 30 months of age when slaughtered, that were born after the region of origin implemented an effective ban on the feeding of ruminant protein to ruminants, and that were not known to have been ruminant protein, other than milk protein, during their lifetime.
- The tallow is not derived from an animal that died otherwise than by slaughter.
- The intestines were removed from each animal at slaughter.
- The shipment of tallow to the United States is accompanied by authorized official certification that the above conditions have been met.

Cervine Offal

In the case of offal, we would require that it be derived from cervids born after the implementation of an effective feed ban that were not known to have been fed ruminant protein, other than milk protein. Because the offal would be derived from low-risk animals, we would consider the product to be unlikely to contain the BSE agent. We would limit the importation of offal to cervine offal, because bovine offal could contain the distal ileum, which is a tissue with confirmed infectivity in BSE-infected bovines.

Section 95.4, paragraph (g), would allow the importation of offal from cervids under the following conditions:

- The offal was derived from cervids that were born after the feed ban, that were not known to have been fed ruminant protein, other than milk protein, during their lifetime, and that were members of a herd not known to be infected with or exposed to a transmissible spongiform encephalopathy.
- The shipment of offal to the United States is accompanied by authorized

official certification that the above conditions have been met.

Additionally, because offal can encompass a variety of materials, for clarification we would add a definition of offal to § 95.1 to mean the parts of a butchered animal that are removed in dressing, consisting largely of the viscera and the trimmings, which may include, but are not limited to, brains, thymus, pancreas, liver, heart, and kidney.

APHIS Inspection of Processing and Handling Facilities; Certification of Compliance

Although § 95.4 restricts the importation of animal protein, tankage, fat, glands, tallow other than tallow derivatives, and serum from regions where BSE is known to exist or that present an undue risk of BSE (as listed in current § 94.18(a)), paragraph (c) of § 95.4 exempts certain materials from the restrictions, under certain conditions, provided the material is derived from a nonruminant species, or from a ruminant species if the ruminants have never been in a region listed in § 94.18(a). One of the conditions for such importation is that all steps of processing and storing the material be carried out in a facility that has not been used for the processing or storage of any materials derived from ruminants that have been in any region listed in § 94.18(a). A further requirement is that, if the facility processes or handles any material derived from mammals, the facility must have entered into a cooperative service agreement with APHIS to pay for the costs of an APHIS veterinarian to make annual inspections of the facility.

Because we believe the regions we are proposing to include in § 94.18(a)(3) of this proposal present a minimal risk for BSE, we believe that, in lieu of annual APHIS inspections of the facility, such inspections could be carried out by the government agency responsible for animal health in the region, although APHIS would reserve the right to inspect as deemed necessary. Therefore, we are proposing to amend § 95.4(c)(4) to exclude facilities in BSE minimal-risk regions from the requirement for a cooperative service agreement and to require that annual inspections of the facility be carried out by a representative of the government agency responsible for animal health in the region. We would, however, still apply to BSE minimal-risk regions the provisions of § 95.4(c)(5), which require the facility to allow periodic inspections by APHIS.

Additionally, we are proposing to amend § 95.4(c)(6), which currently specifies that each shipment imported into the United States in accordance with § 95.4(c) be accompanied by an original certificate signed by a full-time, salaried veterinarian of the government agency responsible for animal health in the region of export certifying that the conditions of that section have been met. Because of the reduced risk of such exports from regions we would consider minimal risk, we are proposing to provide in § 95.4(c)(6) that, for shipments of animal feed, the necessary certification may be signed by a person authorized to issue such certificates by the veterinary services of the national government of the region of origin.

Definitions

In addition to adding definitions of *as a group, designated feedlot, bovine spongiform encephalopathy (BSE) minimal-risk region, offal,* and *personal use* to the regulations, as discussed above, we are proposing to define in § 93.400 the term *USDA representative* to mean a veterinarian or other individual employed by the United States Department of Agriculture who is authorized to perform the services required by part 93.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

Under the Animal Health Protection Act of 2002 (7 U.S.C. 8301 *et seq.*) the Secretary of Agriculture is authorized to promulgate regulations to prevent the introduction into the United States or dissemination of any pest or disease of livestock.

On May 20, 2003, the Canadian Food Inspection Agency reported a case of BSE in a beef cow in northern Alberta. To prevent the introduction of this disease into the United States, APHIS issued an interim rule to classify Canada as a region where BSE exists, thereby prohibiting the importation of ruminants and most ruminant products from Canada, effective May 20, 2003.

This proposed rule would amend the regulations by establishing a category of regions that present a minimal risk of introducing BSE into the United States. The rule would set forth factors considered for placing a region in this category, and risk mitigations that would be required for the importation of certain ruminants and ruminant products from such regions. Although the proposed rule would list Canada as the only BSE minimal-risk region at this time, APHIS would evaluate requests and supporting information submitted by other regions for inclusion in this category.

In accordance with Executive Order 12866 and the Regulatory Flexibility Act, we assessed the potential economic costs and benefits of this rule and potential effects on small entities. Although not addressed in the analysis, Canadian producers/suppliers of ruminants and ruminant products would benefit from the resumption of exports to the United States.

Below is a summary of our economic analysis. A copy of the full economic analysis is available for review in our reading room (see the **ADDRESSES** section at the beginning of this document). You may also view the economic analysis on the Internet by accessing the APHIS Web site at *http://www.aphis.usda.gov.* At the APHIS Web site, click on the ''Hot Issues'' button. On the next screen, click on the listing for ''Bovine Spongiform Encephalopathy (BSE).'' On the next screen, click on the listing for ''Economic Analysis, Proposed Rule, Bovine Spongiform Encephalopathy: Minimal Risk Regions and Importation of Commodities (APHIS Docket No. 03–080–1).'' We do not have enough data for a comprehensive analysis of the potential economic effect of this proposed rule on small entities. Therefore, in accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis for this proposed rule. We are inviting comments about this proposed rule as it relates to small entities. In particular, we are interested in determining the number and kind of small entities that would incur benefits or costs from the implementation of this proposed rule and the economic effect of those benefits or costs.

Because Canada is the only region we are proposing to include in the BSE minimal-risk category at this time, ruminant and ruminant product imports from Canada that would be reestablished under the proposed rule are the focus of our analysis. However, this minimal-risk category is not limited to Canada and could include other regions in the future. The analysis also considers effects of the rule for U.S. ruminant and ruminant product exports should other countries not consider our minimal-risk requirements sufficient to safeguard against BSE introduction into the United States and/or do not accept our listing of Canada as a region of minimal risk.

The commodities that would be allowed to enter under the proposed rule are:

- Cattle less than 30 months of age, sheep and goats less than 12 months of age, and cervids of any age, imported in all cases for immediate slaughter;
- Cattle less than 30 months of age and sheep and goats less than 12 months of age imported for feeding at a designated feedlot (for slaughter at less than 30 months and 12 months of age, respectively);
- Meat from cattle, sheep, and goats that have been slaughtered within these age restrictions;
- Meat of cervids either farm-raised or harvested on a game farm or similar facility;
- Meat from wild-harvested caribou, musk ox, or other cervids that has been commercially processed;
- Certain hunter-harvested wild ruminant products for personal use; and
- Certain other products and byproducts, including bovine livers and tongues, gelatin, tallow, and cervid offal.

With respect to Canada, slaughter cattle, feeder cattle, and beef would be the main commodities affected by resumption of ruminant and ruminant product imports. The additional supplies would cause prices to fall. Welfare gains for consumers and losses for producers/suppliers are measured, and net benefits and losses estimated. Since May of this year, U.S. producers/suppliers of ruminants and ruminant products have benefited from high price levels at least partly attributable to the ban on imports from Canada. Estimated price declines for producers/suppliers and consumers/buyers of slaughter cattle, feeder cattle, and beef largely reflect a return to the more normal market conditions that prevailed before Canada's BSE discovery.

Expected effects due to reestablished slaughter cattle and feeder cattle imports from Canada are shown in table 1. (The model and parameters used are explained in the body of the economic analysis.) The estimated effects are near-term, and would occur during the first year or so following the resumption of imports. In the longer term, production and marketing adjustments in response to changed market conditions would create new price-quantity equilibriums.

TABLE 1.—ECONOMIC EFFECTS OF REESTABLISHED SLAUGHTER CATTLE AND FEEDER CATTLE IMPORTS FROM CANADA

	Slaughter cattle	Feeder cattle
Assumed reestablished slaughter and feeder cattle imports from Canada (head)	840,800	504,500
Change in numbers slaughtered and fed (head)	366,350	221,318
Change in numbers supplied by U.S. entities (head)	(474,450)	(283,182)
Change in the prices of slaughter and feeder cattle (dollars per 100 pounds)	($1.30)	($0.72)
Change in consumer surplus	$455,317,000	$188,220,000
Change in producer surplus	($448,744,000)	($182,053,000)
Annual net benefit	$6,573,000	$6,167,000

Reestablished slaughter cattle imports from Canada of 840,000 head would result in a price decline of $1.30 per 100 pounds. This price decline would be accompanied by an increase of about 366,350 head in the number of cattle slaughtered, and a decrease of 474,450 head in the number of slaughter cattle supplied by U.S. entities. These changes translate into an increase in consumer surplus of $455.3 million for buyers of slaughter cattle, and a decrease in producer surplus of $448.7 million for sellers of slaughter cattle, for an annual net benefit of $6.6 million.

Whether a portion of this benefit would be realized by beef consumers would depend upon wholesale and retail margins and elasticities of demand. The price decline would reduce incomes of domestic suppliers who would be competing with slaughter cattle imports from Canada. The estimated price change is small, falling within expected variations of recent USDA price projections. A price decrease of $1.30 per 100 pounds would represent a decline of 1.7 percent and would not significantly affect buyers or sellers of slaughter cattle.

Reestablished feeder cattle imports from Canada totaling 504,500 head would result in a price decline of 72 cents per 100 pounds. This fall in price would be accompanied by an increase of 221,318 head in the number of cattle fed, and a decrease of 283,182 head in the number of cattle supplied to feedlots by U.S. entities. Consumer surplus would rise by $188.2 million for buyers of feeder cattle, and producer surplus would fall by $182 million for sellers of feeder cattle, for an annual net benefit of about $6.2 million.

A price decline resulting from reestablished feeder cattle imports from Canada would benefit the receiving feedlots. The decline would also reduce incomes for domestic suppliers, such as stocker operations, in competition with importers of feeder cattle from Canada. The estimated effects are small. A price decrease of 72 cents per 100 pounds would represent a decline of 0.9 percent and would not result in significant gains or losses for the affected entities.

Beef is modeled as a single aggregate commodity, but two analyses are performed. Boneless beef and certain other ruminant products are allowed to enter the United States from Canada under permit. We do not know whether quantities of boneless beef that enter under permit will reach levels that prevailed prior to the ban. This uncertainty is acknowledged by using two different import levels. The first analysis assumes that boneless beef imports from Canada under permit will reach 2002 levels; the effect of the proposed rule with respect to beef would be in reestablishing beef with bone and whole/half carcass imports. The second analysis assumes that no boneless beef is imported under permit, and all reestablished beef imports from Canada would be attributable to the proposed rule. The two analyses are hypothetical extremes that provide a lower bound and an upper bound of possible effects. Effects for two price levels of beef, $3.00 and $3.50 per pound, are estimated, as shown in table 2.

TABLE 2.—ECONOMIC EFFECTS OF REESTABLISHED BEEF IMPORTS FROM CANADA, FOR HYPOTHETICAL LOWER AND UPPER BOUNDS OF POSSIBLE EFFECTS OF THE PROPOSED RULE

	Only reestablished beef with bone and whole/half carcass imports from Canada assumed attributable to the proposed rule		All reestablished beef imports from Canada assumed attributable to the proposed rule	
	$3.00 per pound beef	$3.50 per pound beef	$3.00 per pound beef	$3.50 per pound beef
Assumed beef imports from Canada (tons)	84,000	84,000	382,000	382,000
Change in U.S. consumption (tons)	40,324	40,324	183,378	183,378
Change in U.S. production (tons)	(43,676)	(43,676)	(198,622)	(198,622)
Change in the price of beef (per pound)	(1.1 cents)	(1.3 cents)	(5.2 cents)	(6.1 cents)
Change in consumer surplus	$313,260,000	$365,455,000	$1,416,390,000	$1,652,383,000
Change in producer surplus	($289,425,000)	($337,648,000)	($1,325,068,000)	($1,545,845,000)
Annual net benefit	$23,835,000	$27,807,000	$91,322,000	$106,538,000

For beef prices of $3.00 and $3.50 per pound, respectively, annual net benefits of established beef imports would be $23.8 million and $27.8 million (only beef with bone and whole/half carcass imports assumed to be reestablished due to the proposed rule), and $91.3 million and $106.5 million (all beef imports assumed to be reestablished due to the proposed rule). As with reestablished imports of slaughter and feeder cattle, expected price declines due to reestablished beef imports from Canada would not be of a magnitude to significantly affect the economic welfare of producers or consumers. In the first case, price declines of 1.1 cents and 1.3 cents per pound are estimated for assumed beef prices of $3.00 and $3.50 per pound, respectively. In the second case, price declines of 5.2 cents and 6.1 cents per pound are estimated. Even in the latter analysis (all reestablished beef imports from Canada attributable to the proposed rule), the price declines represent less than a 2 percent fall in price.

Other, more minor commodities that would be allowed entry under the proposed rule and for which we have trade data are sheep, goats, and farmed cervids; meat from these ruminants; and bovine tongues and livers. In all cases, reestablished imports from Canada would not significantly affect the U.S. supply of these commodities or the welfare of U.S. entities.

The United States prohibits ruminant imports from BSE-affected regions. Under the proposed rule, the United States would recognize Canada as a minimal-risk region for BSE, under which ruminant imports could resume. U.S. ruminant and ruminant product exports would be placed in jeopardy if importing countries do not agree that the factors the United States would consider justify the categorization of a region as one of minimal risk, and do not agree that the proposed age restrictions and other measures provide an adequate safeguard against the risk of BSE introduction from such a region.

We therefore analyze the economic effects that would occur if the United States would lose major export markets due to this proposed rule and its inclusion of Canada as a minimal-risk region.

Because U.S. ruminant and ruminant product exports to Canada and Mexico would not be jeopardized by this proposed rule, exports to these two countries are excluded from the analysis. Since nearly all U.S. cattle exports are to Canada and Mexico, we can also limit the analysis to possible effects for beef exports.

Canada and Mexico together imported about 36 percent of U.S. beef exports in 2002. Removing these exports from consideration leaves about 64 percent of U.S. beef exports that could be affected by the proposed rule. About 56 percent of U.S. beef exports (over 87 percent, excluding shipments to Canada and Mexico) were sold to Japan and Korea. Given the predominance of these two countries among importers of U.S. beef, the analysis is performed for two levels of export reduction: 32 percent of 2002 exports, or 263,360 tons (loss of one-half of export markets other than Canada and Mexico), and 64 percent, or 546,720 tons (loss of all export markets other than Canada and Mexico). For each of these assumed levels of export reduction, impacts are estimated using the same beef prices, $3.00 and $3.50 per pound. The results of the analysis are shown in table 3.

TABLE 3.—ECONOMIC EFFECTS OF THE LOSS OF U.S. BEEF EXPORT MARKETS, ASSUMING EXPORT REDUCTIONS OF 32 PERCENT AND 64 PERCENT

[Quantities equivalent to one-half and all U.S. beef exports when exports to Canada and Mexico are excluded]

	Loss of export markets equivalent to 32 percent of 2002 beef exports		Loss of export markets equivalent to 64 percent of 2002 beef exports	
	$3.00 per pound beef	$3.50 per pound beef	$3.00 per pound beef	$3.50 per pound beef
Assumed reduction in beef exports (tons)	263,360	263,360	546,720	546,720
Change in U.S. consumption (tons)	116,483	116,483	232,967	232,967
Change in U.S. production (tons)	(146,877)	(146,877)	(293,753)	(293,753)
Change in the price of beef (cents per pound)	(3.6 cents)	(4.2 cents)	(7.2 cents)	(8.4 cents)
Change in consumer surplus	$910,983,000	$1,062,767,000	$1,831,174,000	$2,136,278,000
Change in producer surplus	($965,636,000)	($1,126,526,000)	($1,919,660,000)	($2,239,507,000)
Annual net benefit	($54,653,000)	($63,759,000)	($88,486,000)	($103,229,000)

Loss of one-half of U.S. beef export markets other than Canada and Mexico and redirection of the beef to the U.S. market would result in annual net welfare losses of about $54.7 million and $63.8 million, for beef prices of $3.00 and $3.50 per pound, respectively. The associated declines in price would be 3.6 cents and 4.2 cents per pound. The effects if all U.S. beef export markets other than Canada and Mexico were to close would be annual net welfare losses of about $88.5 million and $103.2 million for the two beef price levels, with decreases in price of 7.2 cents and 8.4 cents per pound. As explained, these effects would occur only if the proposed rule is adopted as final and the countries to which the United States exports beef decided to refuse its entry as a result.

The main industries that would be affected by the proposed rule, such as livestock producers, slaughtering establishments, and meat processors, are composed predominantly of small entities. As indicated above, since May of this year, U.S. producers/suppliers of ruminants and ruminant products have benefited from high price levels at least partly attributable to the ban on imports from Canada. By the same token, buyers of slaughter cattle, feeder cattle, and beef would benefit from price declines (slaughter cattle, 1.7 percent; feeder cattle, 0.9 percent; and beef, less than 2 percent) resulting from the reestablishment of these imports.

Effects from the possible loss of U.S. export markets and subsequent industry contractions, if this proposed rule is adopted as final and other countries were to refuse entry of our beef as a result, would harm small as well as large entities. This outcome could occur, even though BSE has never been discovered in the United States, if, as described above, countries importing U.S. beef do not agree that the factors the United States would consider justify the categorization of a region as one of minimal risk, and do not agree that the proposed age restrictions and other measures provide an adequate safeguard against the risk of BSE introduction from such a region.

Alternatives to the proposed rule would be to (1) leave the regulations unchanged—that is, continue to prohibit entry of ruminants and most ruminant products from regions of minimal BSE risk (other than products allowed entry under permit), or (2) allow the commodities to enter from such regions without the age restrictions or other measures set forth in the proposed rule. Because Canada is the only country we are proposing to list as a BSE minimal-risk region at this time, the alternatives are discussed in terms of Canada.

By maintaining current import restrictions, estimated benefits of reestablishing slaughter cattle, feeder cattle, and beef imports from Canada would not be realized. Continuation of the status quo would also eliminate any possibility of adverse effects for U.S. exports.

Concerning the second alternative, the proposed age requirements and other measures are based on the known epidemiology of BSE. Without these mitigations, we believe importation of ruminants and ruminant products (other than those allowed entry by permit) would expose the United States to greater risk of BSE introduction.

A BSE discovery in the United States would have economic consequences similar to those that have occurred in Canada and elsewhere. Losses would take the form of lowered demand, closed export markets, animal depopulations, and increased government expenditures for disease management and compensation for depopulated livestock. Tens of thousands of jobs with total earnings in the hundreds of millions of dollars could be threatened by the loss of export markets due to a discovery of BSE.

Because BSE has been linked to variant Creutzfield-Jakob disease, one of the most significant impacts of a BSE occurrence in the United States would be the potential loss of consumer confidence in the safety of the U.S. beef supply. An incidence of BSE could result in a downward shift in demand for beef, leading to lowered prices and production.

APHIS acknowledges a theoretical increased risk of BSE introduction into the United States because of this rule. However, we conclude in the risk analysis used as a basis for this rule that, with the proposed mitigation measures, this risk is extremely small. If an introduction occurred, few, if any, additional animals would be infected. It is highly unlikely that such an introduction would pose a major animal health or public health threat in the United States; regulations and practices in the United States are robust and would militate against human exposure or disease spread.

The proposed rule is considered preferable to either continuing to prohibit the entry of ruminants and certain ruminant products from a BSE minimal-risk region or allowing their entry unconditionally. We believe the factors considered in listing a region as one of minimal risk and the mitigations required for the entry of ruminants and ruminant products would make the likelihood of the introduction of even one animal or product containing infectious levels of the BSE agent extremely small. We also believe that listing Canada as a BSE minimal-risk region, together with the risk-mitigation measures that would be required, is a balanced, science-based response to Canada's request that ruminants and certain ruminant product imports by the United States from Canada be allowed to resume.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

National Environmental Policy Act

We have prepared an environmental assessment regarding the potential impact on the quality of the human environment due to the importation of ruminants and ruminant products and byproducts from Canada under the conditions specified in this proposed rule. APHIS' review and analysis of the potential environmental impacts associated with these proposed importations are documented in an environmental assessment titled ''Proposed Rulemaking to Establish Criteria for the Importation of Designated Ruminants and Ruminant Products from Canada into the United States, Environmental Assessment (October 2003).'' We are making this environmental assessment available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

Copies of the environmental assessment 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 proposed rule). In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.** The environmental assessment may also be viewed on the Internet at *http://www.aphis.usda.gov/ppd/es/vsdocs.html.*

The environmental assessment was 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).

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 03–080–1. Please send a copy of your comments to: (1) Docket No. 03–080–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would recognize a category of regions that present a minimal risk of introducing BSE into the United States via live ruminants and ruminant products, and would add Canada to this category. The proposed rule would also allow the importation of certain live ruminants and ruminant products from such BSE minimal-risk regions under certain conditions.

Accomplishing this would require the use of several information collection activities, including the completion of certification statements for the importation of both ruminants and ruminant-derived products by the national veterinary authority of the region of origin, permits for the movement of restricted animals, forms associated with the importation of animals for immediate slaughter, the placing of seals on certain conveyances, and the tattooing of letters on certain livestock.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed 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 2 hours per response.

Respondents: Canadian veterinary authorities, herd owners, and exporters of ruminants and ruminant-derived products; slaughter plant and feedlot personnel in the United States, accredited veterinarians, and State veterinary authorities.

Estimated annual number of respondents: 6,000.

Estimated annual number of responses per respondent: 20.

Estimated annual number of responses: 120,000.

Estimated total annual burden on respondents: 240,000 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.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects

9 CFR Part 93

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

9 CFR Part 94

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

9 CFR Part 95

Animal feeds, Hay, Imports, Livestock, Reporting and recordkeeping requirements, Straw, Transportation.

Accordingly, we propose to amend 9 CFR parts 93, 94, and 95 as follows:

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

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

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

2. Section 93.400 would be amended by adding definitions of *as a group, designated feedlot,* and *USDA representative,* in alphabetical order, to read as follows:

§ 93.400 Definitions.

* * * * *

As a group. Collectively, in such a manner that the identity of the animals as a unique group is maintained.

* * * * *

Designated feedlot. A feedlot indicated on the declaration required under § 93.407 as the destination of the ruminants imported into the United States.

* * * * *

USDA representative. A veterinarian or other individual employed by the United States Department of Agriculture who is authorized to perform the services required by this part.

* * * * *

3. A new § 93.436 would be added to subpart D to read as follows:

§ 93.436 Ruminants from regions of minimal risk for BSE.

The importation of ruminants from regions listed in § 94.18(a)(3) of this subchapter is prohibited, unless the conditions of this section and any other applicable conditions of this part are met. Once the ruminants are imported, if they do not meet the conditions of this section, they must be disposed of as the Administrator may direct.

(a) *Bovines for immediate slaughter.* Bovines from a region listed in § 94.18(a)(3) of this subchapter may be imported for immediate slaughter under the following conditions:

(1) The bovines must be less than 30 months of age when imported into the United States;

(2) The bovines must not have been known to have been fed ruminant protein, other than milk protein, during their lifetime;

(3) The bovines must be accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the region of origin, or issued by a veterinarian designated or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so, that states that the conditions of paragraphs (a)(1) and (a)(2) of this section have been met;

(4) The bovines must be imported only through a port of entry listed in § 93.403(b) or as provided for in § 93.403(f) and must be moved directly as a group from the port of entry to a recognized slaughtering establishment in conveyances that must be sealed with seals of the U.S. Government at the port of entry. The seals may be broken only at the recognized slaughtering establishment by a USDA representative;

(5) The shipment must be accompanied from the port of entry to the recognized slaughtering establishment by APHIS Form VS 17–33;

(6) At the recognized slaughtering establishment, the animals must be slaughtered as a group and each animal's intestines must be removed; and

(7) The intestines removed from the animals must be disposed of in a manner approved by the Administrator.

(b) *Bovines for feeding.* Bovines from a region listed in § 94.18(a)(3) of this subchapter may be imported under the following conditions:

(1) The bovines must be less than 30 months of age when imported into the United States;

(2) The bovines must not have been known to have been fed ruminant protein, other than milk protein, during their lifetime;

(3) The inside of one ear on each animal must be permanently and legibly tattooed with letters identifying the exporting country. Animals exported from Canada must be tattooed with the letters ''CAN'';

(4) The bovines must be accompanied by a certificate issued in accordance with § 93.405(a) that states, in addition to the statements required by § 94.405(a), that the conditions of paragraphs (b)(1) through (b)(3) of this section have been met;

(5) The bovines must be imported only through a port of entry listed in § 93.403(b) or as provided for in § 93.403(f) and must be moved directly from the port of entry as a group to the designated feedlot;

(6) The shipment must be accompanied from the port of entry to the designated feedlot by APHIS Form VS 1–27;

(7) The bovines must be moved directly from the designated feedlot to a recognized slaughtering establishment for slaughter;

(8) The shipment must be accompanied from the designated feedlot to the recognized slaughtering establishment by APHIS Form VS 1–27;

(9) The bovines must be less than 30 months of age when slaughtered;

(10) At the recognized slaughtering establishment, each animal's intestines must be removed; and

(11) The intestines removed from the animals must be disposed of in a manner approved by the Administrator.

(c) *Sheep or goats for immediate slaughter.* Sheep and goats from a region listed in § 94.18(a)(3) of this subchapter may be imported for immediate slaughter under the following conditions:

(1) The sheep or goats must be less than 12 months of age when imported into the United States;

(2) The sheep or goats must not have been known to have been fed ruminant protein, other than milk protein, during their lifetime;

(3) The sheep or goats must be accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the region of origin, or issued by a veterinarian designated or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so, that states that the conditions of paragraphs (c)(1) and (c)(2) of this section have been met;

(4) The sheep or goats must be imported only through a port of entry listed in § 93.403(b) or as provided for in § 93.403(f) and must be moved directly as a group from the port of entry to a recognized slaughtering establishment for slaughter as a group in conveyances that must be sealed with seals of the U.S. Government at the port of entry. The seals may be broken only at the recognized slaughtering establishment by a USDA representative; and

(5) The shipment must be accompanied from the port of entry to the recognized slaughtering establishment by APHIS Form VS 17–33.

(d) *Sheep or goats for feeding.* Sheep and goats from a region listed in § 94.18(a)(3) of this subchapter may be imported under the following conditions:

(1) The sheep or goats must be less than 12 months of age when imported into the United States;

(2) The sheep or goats must not have been known to have been fed ruminant protein, other than milk protein, during their lifetime;

(3) The inside of one ear on each animal must be permanently and legibly tattooed with letters identifying the exporting country. Animals from Canada must be tattooed with the letters ''CAN'';

(4) The sheep or goats must be accompanied by a certificate issued in accordance with § 93.405(a) that states, in addition to the statements required by § 94.405(a), that the conditions of paragraphs (d)(1) through (d)(3) of this section have been met;

(5) The sheep or goats may be imported only through a port of entry listed in § 93.403(b) or as provided for in § 93.403(f) and must be moved directly as a group from the port of entry to a designated feedlot;

(6) The shipment must be accompanied from the port of entry to the designated feedlot by APHIS Form VS 1–27;

(7) The sheep or goats must be moved directly from the designated feedlot to a recognized slaughtering establishment for slaughter;

(8) The shipment must be accompanied from the designated feedlot to the recognized slaughtering establishment by APHIS Form VS 1–27; and

(9) The sheep and goats must be less than 12 months of age when slaughtered.

(e) *Cervids for immediate slaughter.* Cervids from a region listed in § 94.18(a)(3) of this subchapter may be imported for immediate slaughter under the following conditions:

(1) The cervids must have been members of a herd in which surveillance for transmissible spongiform encephalopathies was conducted by appropriate authorities according to national standards or standards of the region itself if the region is a jurisdiction that has effective oversight of normal animal movements into, out of, or within the region and that, in association with national authorities if necessary, has the

responsibility for controlling animal disease locally;

(2) The cervids must have been members of a herd not known to be infected with or exposed to a transmissible spongiform encephalopathy;

(3) The cervids must have been born after a ban on the feeding of ruminant protein to ruminants was implemented;

(4) The cervids must not have been known to have been fed ruminant protein, other than milk protein, during their lifetime;

(5) The cervids must be accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the region of origin, or issued by a veterinarian designated or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so, that states the conditions of paragraphs (e)(1) through (e)(4) of this section have been met;

(6) The cervids must be imported only through a port of entry listed in § 93.403(b) or as provided for in § 93.403(f) and must be moved directly from the port of entry as a group to a recognized slaughtering establishment for slaughter as a group in conveyances that must be sealed with seals of the U.S. Government at the port of entry. The seals may be broken only at the recognized slaughtering establishment by a USDA representative; and

(7) The shipment must be accompanied from the port of entry to the recognized slaughtering establishment by APHIS Form VS 17–33.

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

4. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

5. Section 94.0 would be amended by adding new definitions of *bovine spongiform encephalopathy (BSE) minimal-risk region,* and *personal use,* in alphabetical order, to read as follows:

§ 94.0 Definitions.

* * * * *

Bovine spongiform encephalopathy (BSE) minimal-risk region. A region that:

(1) Maintains, and, in the case of regions where BSE was detected, had in place prior to the detection of BSE, risk mitigation measures adequate to prevent widespread exposure and/or establishment of the disease. Such measures include the following:

(i) Restrictions on the importation of animals sufficient to minimize the possibility of infected ruminants being imported into the region, and on the importation of animal products and animal feed containing ruminant protein sufficient to minimize the possibility of ruminants in the region being exposed to BSE;

(ii) Surveillance for BSE at levels that meet or exceed OIE recommendations for surveillance for BSE; and

(iii) A ban on the feeding of ruminant protein to ruminants that appears to be an effective barrier to the dissemination of the BSE infectious agent, with no evidence of significant noncompliance with the ban.

(2) In regions where BSE was detected, conducted an epidemiological investigation following detection of BSE sufficient to confirm the adequacy of measures to prevent the further introduction or spread of BSE, and continues to take such measures.

(3) In regions where BSE was detected, took additional risk mitigation measures, as necessary, following the BSE outbreak based on risk analysis of the outbreak, and continues to take such measures.

* * * * *

Personal use. Only for personal consumption or display and not distributed further or sold.

* * * * *

§ 94.1 [Amended]

6. In § 94.1, paragraph (b)(4) and the introductory text to paragraph (d) would be amended by removing the reference to ''§ 94.21'' each time it appears and replacing it with a reference to ''§ 94.22''.

7. Section 94.18 would be amended as follows:

a. Paragraph (a)(3) would be redesignated as paragraph (a)(4) and revised to read as set forth below.

b. A new paragraph (a)(3) would be added, and paragraph (b) and the introductory text of paragraph (c) would be revised, to read as set forth below.

§ 94.18 Restrictions on importation of meat and edible products from ruminants due to bovine spongiform encephalopathy.

(a) * * *

(3) The following are minimal-risk regions with regard to bovine spongiform encephalopathy: Canada.

(4) A region may request at any time that the Administrator consider its removal from a list in paragraphs (a)(1) or (a)(2) or this section, or its addition to or removal from the list in paragraph (a)(3) of this section, by following the procedures in part 92 of this subchapter.

(b) Except as provided in paragraph (d) of this section or in § 94.19, the importation of fresh (chilled or frozen) meat, meat products, and edible products other than meat (except for gelatin as provided in paragraph (c) of this section, milk, and milk products), from ruminants that have been in any of the regions listed in paragraph (a) of this section is prohibited.

(c) *Gelatin.* The importation of gelatin derived from ruminants that have been in any region listed in paragraph (a) of this section is prohibited unless the following conditions, or the conditions of § 94.19(j), have been met:

* * * * *

8. Sections 94.19 through 94.24 would be redesignated as §§ 94.20 through 94.25, respectively.

9. A new § 94.19 would be added to read as follows:

§ 94.19 Restrictions on importation from BSE minimal-risk regions of meat and edible products from ruminants.

Except as provided in § 94.18 and this section, the importation of fresh (chilled or frozen) meat, meat products, and edible products other than meat (excluding gelatin, milk, and milk products), from ruminants that have been in any of the regions listed in § 94.18(a)(3) is prohibited. The commodities listed in paragraphs (a) through (j) of this section may be imported from a region listed in § 94.18(a)(3) if the conditions listed are met and if, except for the commodities described in paragraph (g), the commodities are accompanied by an original certificate of such compliance issued by a full-time salaried veterinary officer of the national government of the region of origin, or issued by a veterinarian designated or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so.

(a) *Fresh (chilled or frozen) meat from bovines less than 30 months of age.* The

meat is derived from bovines that were less than 30 months of age when slaughtered and that are not known to have been fed ruminant protein, other than milk protein, during their lifetime, and meets the following conditions:

(1) The bovines from which the meat is derived were slaughtered at a facility that either slaughters only bovines less than 30 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the meat with products not eligible for importation into the United States.

(2) The intestines of the bovines were removed at slaughter; and

(3) The product qualifies as *meat* under the definition of *meat* in USDA's Food Safety and Inspection Service's regulations at 9 CFR 301.2.

(b) *Fresh (chilled or frozen) whole or half carcasses of bovines less than 30 months of age.* The carcasses are derived from bovines that meet the following conditions:

(1) The bovines were less than 30 months of age when slaughtered;

(2) The bovines are not known to have been fed ruminant protein, other than milk protein, during their lifetime;

(3) The intestines of the bovines were removed at slaughter; and

(4) The bovines were slaughtered at a facility that either slaughters only bovines less than 30 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling with products not eligible for importation into the United States.

(c) *Fresh (chilled or frozen) bovine liver.* The commodity is liver containing no other product and is derived from bovines for which an air-injected stunning process was not used at slaughter.

(d) *Fresh (chilled or frozen) bovine tongues.* The tongues are derived from bovines that were born after the region implemented an effective ban on the feeding of ruminant protein to ruminants, that are not known to have been fed ruminant protein, other than milk protein, during their lifetime, and from which the tonsils of each animal were removed at slaughter.

(e) *Fresh (chilled or frozen) meat of sheep or goats or other ovines or caprines.* The meat is from sheep or goats or other ovines or caprines that were less than 12 months of age when slaughtered and that are not known to have been fed ruminant protein, other than milk protein, during their lifetime, and meets the following conditions:

(1) The meat is derived from sheep or goats or other ovines or caprines that were slaughtered at a facility that either slaughters only sheep and/or goats or other ovines and caprines less than 12 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the meat with products not eligible for importation into the United States; and

(2) The product qualifies as meat under the definition of *meat* in USDA's Food Safety and Inspection Service's regulations at 9 CFR 301.2.

(f) *Fresh (chilled or frozen) carcasses of ovines and caprines.* The carcasses are derived from ovines or caprines that were less than 12 months of age when slaughtered, that are not known to have been fed ruminant protein, other than milk protein, during their lifetime, and that were slaughtered at a facility that either slaughters only ovines and/or caprines less than 12 months of age or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the carcasses with products not eligible for importation into the United States.

(g) *Fresh (chilled or frozen) meat or dressed carcasses of hunter-harvested wild sheep, goats, cervids, or other ruminants.* The meat or dressed carcass (eviscerated and the head is removed) is derived from a wild sheep, goat, cervid, or other ruminant and meets the following conditions:

(1) The meat or dressed carcass is intended for personal use and is derived from an animal that has been legally harvested in the wild, as verified by proof such as a hunting license, tag, or the equivalent that the hunter must show to the United States Customs and Border Protection official; and

(2) The animals from which the meat is derived were harvested within a jurisdiction specified by the Administrator for which the game and wildlife service of the jurisdiction has informed the Administrator either that the jurisdiction conducts no type of game feeding program, or has complied with, and continues to comply with, the ban on the feeding of ruminant protein to ruminants in the BSE minimal-risk region.

(h) *Fresh (chilled or frozen) meat of cervids either farm-raised or harvested on a game farm or similar facility.* The meat is derived from cervids that were born after the region of origin implemented an effective ban on the feeding of ruminant protein to ruminants, that are not known to have been fed ruminant protein, other than milk protein, during their lifetime, and that were members of a herd not known to be infected with or exposed to a transmissible spongiform encephalopathy, and, if ground meat or sausage, is either all cervine meat or cervine meat mixed with nonruminant meat.

(i) *Fresh (chilled or frozen) meat from wild-harvested caribou, musk ox, or other cervids.* The meat is derived from wild caribou, musk ox, or other cervids and meets the following conditions:

(1) The animals from which the meat is derived were harvested within a jurisdiction specified by the Administrator for which the game and wildlife service of the jurisdiction has informed the Administrator either that the jurisdiction conducts no type of game feeding program, or has complied with, and continues to comply with, the ban on the feeding of ruminant protein to ruminants in the BSE minimal-risk region; and

(2) The meat is derived from cervids that were slaughtered at a facility that either slaughters only cervids eligible for entry into the United States or complies with a segregation process approved by the national veterinary authority of the region of origin and the Administrator as adequate to prevent contamination or commingling of the meat with products not eligible for importation into the United States.

(j) *Gelatin.* The gelatin is derived from the bones of bovines less than 30 months of age when slaughtered and that are not known to have been fed ruminant protein, other than milk protein, during their lifetime.

(k) *Ports.* All products to be brought into the United States under this section must, if arriving at a land border port, arrive at one of the following ports: Eastport, ID; Houlton, ME; Detroit (Ambassador Bridge), Port Huron, and Sault St. Marie, MI; International Falls, MN; Sweetgrass, MT; Alexandria Bay, Buffalo (Lewiston Bridge and Peace Bridge), and Champlain, NY; Pembina and Portal, ND; Derby Line and Highgate Springs, VT; and Blaine (Pacific Highway and Cargo Ops), Lynden, Oroville, and Sumas (Cargo), WA.

PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW, OFFERED FOR ENTRY INTO THE UNITED STATES

10. The authority citation for part 95 would continue to read as follows:

Authority: 7 U.S.C. 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

11. Section 95.1 would be amended by adding a new definition of *offal,* in alphabetical order, to read as follows:

§ 95.1 Definitions.

* * * * *

Offal. The parts of a butchered animal that are removed in dressing, consisting largely of the viscera and the trimmings, which may include, but are not limited to, brains, thymus, pancreas, liver, heart, kidney.

* * * * *

12. Section 95.4 would be amended as follows:

a. In paragraph (a), the words ''paragraphs (c) through (f)'' would be removed and the words ''paragraphs (c) through (h)'' would be added in their place.

b. In paragraph (b), the words ''paragraphs (d) and (f)'' would be removed and the words ''paragraphs (d) and (h)'' would be added in their place.

c. In paragraph (c)(4), the first sentence would be revised and a new sentence would be added after the final sentence to read as set forth below.

d. Paragraph (c)(6) would be revised to read as set forth below.

e. Paragraph (f) would be redesignated as paragraph (h).

f. New paragraphs (f) and (g) would be added to read as set forth below:

§ 95.4 Restrictions on the importation of processed animal protein, offal, tankage, fat, glands, certain tallow other than tallow derivatives, and serum due to bovine spongiform encephalopathy.

* * * * *

(c) * * *

(4) Except for facilities in regions listed in § 94.18(a)(3) of this subchapter, if the facility processes or handles any material derived from mammals, the facility has entered into a cooperative service agreement executed by the operator of the facility and APHIS. * * * In facilities in regions listed in § 94.18(a)(3) of this subchapter, the inspections that would otherwise be conducted by APHIS must be conducted at least annually by a representative of the government agency responsible for animal health in the region.

* * * * *

(6) Each shipment to the United States is accompanied by an original certificate signed by a full-time, salaried veterinarian of the government agency responsible for animal health in the region of export certifying that the conditions of paragraph (c)(1) through (c)(3) of this section have been met, except that, for shipments of animal feed from a region listed in § 18(a)(3) of this subchapter, the certificate may be signed by a person authorized to issue such certificates by the veterinary services of the national government of the region of origin.

* * * * *

(f) Tallow otherwise prohibited importation under paragraph (a)(1) of this section may be imported into the United States if it meets the following conditions:

(1) The tallow is composed of less than 0.15 percent protein;

(2) The tallow is derived from bovines that have not been in a region listed in § 94.18(a)(1) or (a)(2) of this subchapter:

(3) The bovines were less than 30 months of age when slaughtered and were born after the region of origin implemented an effective ban on the feeding of ruminant protein to ruminants;

(4) The bovines are not known to have been fed ruminant protein, other than milk protein, during their lifetime;

(5) The intestines were removed from each bovine at slaughter.

(6) The tallow is not derived from an animal that died otherwise than by slaughter;

(7) Each shipment to the United States is accompanied by an original certificate signed by a full-time salaried veterinary officer of the national government of the region of origin, or issued by a veterinarian designated by or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so. The certificate must state that the requirements of paragraphs (f)(1) through (f)(6) of this section have been met; and

(8) The shipment, if arriving at a U.S. land border port, arrives at a port listed in § 94.19(k) of this subchapter.

(g) Offal derived from cervids that is otherwise prohibited importation under paragraph (a)(1) of this section may be imported if the following conditions are met:

(1) The offal is derived from cervids that were born after the region of origin implemented an effective ban on the feeding of ruminant protein to ruminants, that are not known to have been fed ruminant protein, other than milk protein, during their lifetime, and that were members of herd not known to be infected with or exposed to a transmissible spongiform encephalopathy;

(2) Each shipment to the United States is accompanied by an original certificate signed by a full-time salaried veterinary officer of the national government of the region of origin, or issued by a veterinarian designated by or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so. The certificate must state that the requirements of paragraph (g)(1) of this section have been met; and

(3) The shipment, if arriving at a U.S. land border port, arrives at a port listed in § 94.19(k) of this subchapter.

* * * * *

Done in Washington, DC, this 29th of October 2003.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 03–27611 Filed 10–31–03; 2:30 pm]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–120–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that currently requires an inspection to detect moisture and migrated bushings of the guide fittings of the safety locking pins of the passenger doors, removal of any moisture, application of grease, and reinstallation of any migrated bushing. That AD also requires installation of a greasing nipple on the guide fitting of the locking pin and on three telescopic rods on the passenger doors. This action would add a requirement for modification of the upper guide fitting of the locking pin, and would expand the applicability in the existing AD. The

actions specified by the proposed AD are intended to prevent jamming of the locking pin of the passenger door, which could result in inability to open the passenger door and delay of evacuation in an emergency, resulting in possible injury to passengers or crew. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by December 4, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–120–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001-NM–120–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

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 shall 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.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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 2001–NM–120–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–120–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 30, 1997, the FAA issued AD 98–01–12, amendment 39–10275 (63 FR 1905, January 13, 1998), applicable to certain Airbus Model A320 series airplanes, to require an inspection to detect moisture and migrated bushings of the guide fittings of the safety locking pins of the passenger doors, removal of any moisture, application of grease, and reinstallation of any migrated bushing. That AD also requires installation of a greasing nipple on the guide fitting of the locking pin and on three telescopic rods on the passenger doors. That action was prompted by reports of difficulty opening the passenger doors due to jamming of the locking pin. The requirements of that AD are intended to prevent such jamming of the locking pin, which could result in inability to open the passenger door.

Actions Since Issuance of Previous Rule

Since the issuance of AD 98–01–12, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has informed us of additional incidents involving jamming of the forward right door in the up position on certain Model A319, A320, and A321 series airplanes. Investigation revealed migration of the bushings in the upper safety guide fitting which were installed per the requirements of that AD. Jamming of the locking pin of the passenger door could result in inability to open the passenger door and delay of evacuation in an emergency, resulting in possible injury to passengers or crew.

Modification of the upper guide fitting of the locking pin will prevent any possibility of migration of the bushings, and will allow the grease to escape during servicing of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–52–1105, Revision 02, dated May 21, 2002, which describes procedures for modification of the upper guide fitting of the locking pin of the forward and aft passenger/crew doors. The modification involves installing a new single recessed guide bushing with a threaded lubrication fitting. The service bulletin also specifies accomplishment of functional and operational tests after doing the modification. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001–100(B), dated March 21, 2001, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are 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 us informed of the situation described above. We have 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.

Explanation of Requirements of Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–01–12 to continue to require an inspection to detect moisture and migrated bushings of the guide fittings of the safety locking pins of the

passenger doors, removal of any moisture, application of grease, and reinstallation of any migrated bushing. The proposed AD also would continue to require installation of a greasing nipple on the guide fitting of the locking pin and on three telescopic rods on the passenger doors. This action would add a requirement for modification of the upper guide fitting of the locking pin, and would expand the applicability in the existing AD. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between the French Airworthiness Directive, Service Bulletin and This Proposed AD

The service bulletin and French airworthiness directive recommend doing the modification within 3 years after issuance of the service bulletin and French airworthiness directive, for Model A320 and A321 series airplanes on which Airbus Service Bulletin A320–52–1057 has been incorporated in service; and within 5 years after issuance of the service bulletin and French airworthiness directive, for Model A319, A320, and A321 series airplanes on which Airbus Modification 24389 was done in production. This proposed AD would require that the modification for those airplanes be done within 1 year and 3 years, respectively, after the effective date of the AD. In developing an appropriate compliance time for this proposed AD, we have considered the degree of urgency associated with the subject unsafe condition, in addition to the fact that maintenance schedules vary among operators, depending on the average utilization of the affected fleet and the time necessary to perform the actions. In light of these factors, we find that this compliance time represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 168 airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 98–01–12 take about 4 work hours per airplane (1 work hour per door) to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $260 per airplane.

The new modification that is proposed in this AD action would take about 8 work hours per airplane (2 work hours per door) to accomplish, at an average labor rate of $65 per work hour. Required parts costs would be minimal. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $87,360, or $520 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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 39–10275 (63 FR 1905, January 13, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Airbus: Docket 2001–NM–120–AD. Supersedes AD 98–01–12, Amendment 39–10275.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; except those on which Airbus Modification 27142 has been incorporated during production.

Compliance: Required as indicated, unless accomplished previously.

To prevent jamming of the locking pin of the passenger door, which could result in inability to open the passenger door and delay of evacuation in an emergency, resulting in possible injury to passengers or crew, accomplish the following:

Restatement of Requirements of AD 98–01–12

Inspection/Corrective Action

(a) Prior to the accumulation of 450 hours, time-in-service after one year from the delivery date of the airplane, or within 450 hours, time-in-service after February 17, 1998 (the effective date of AD 98–01–12, amendment 39–10275), whichever occurs later; perform an inspection to detect moisture or migrated bushings of the guide fittings of the upper safety locking pins on each passenger door, in accordance with Airbus Industrie All Operators Telex (AOT) 52–06, dated February 4, 1994.

(1) If any moisture is found in the guide fitting, prior to further flight, remove the moisture, dry the guide fitting, fill it with low temperature grease, and reinstall the guide fitting with bolts, washers, and nuts in accordance with the AOT.

(2) If any migrated bushing is found, prior to further flight, reinstall the bushing using Loctite 672 in accordance with the AOT. If the bushing cannot be reinstalled prior to further flight, the airplane may be operated without the upper locking pin for an additional 50 hours time-in-service or three days after accomplishing the inspection, whichever occurs first, provided that the requirements specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD are accomplished. This compliance time applies to each passenger door.

(i) The connecting rod to the locking shaft shall be removed.

(ii) The guide fitting shall remain installed.

(iii) The cavity in the guide fitting (which results from the removal of the upper locking pin) shall be covered with high speed tape to prevent moisture ingress.

Installation of Greasing Nipple

(b) Within 15 months after February 17, 1998, install a greasing nipple on the guide fitting of the locking pin and on three telescopic rods on the passenger doors in accordance with Airbus Industrie Service Bulletin No. A320–52–1057, dated July 26, 1994.

New Requirements of This AD

Modification

(c) Modify the upper guide fitting of the locking pin in accordance with paragraphs 3.A. through 3.D. of the Accomplishment Instructions of Airbus Service Bulletin A320–52–1105, Revision 02, dated May 21, 2002; at the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable. Accomplishment of the modification before the effective date of this AD in accordance with Airbus Service Bulletin A320–52–1105, dated September 29, 2000; or Revision 01, dated August 7, 2001; is considered acceptable for compliance with the corresponding action in this paragraph.

(1) For Model A320 and A321 series airplanes on which Airbus Service Bulletin A320–52–1057 has been incorporated in service: Within 1 year after the effective date of this AD.

(2) For Model A319, A320, and A321 series airplanes on which Airbus Modification 24389 was done in production: Within 3 years after the effective date of this AD.

Alternative Methods of Compliance

(d)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

(2) Alternative methods of compliance, approved previously per AD 98–01–12, amendment 39–10275, are approved as alternative methods of compliance with paragraphs (a) and (b) of this AD, as applicable.

Note 1: The subject of this AD is addressed in French airworthiness directive 2001–100(B), dated March 21, 2001.

Issued in Renton, Washington, on October 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–27670 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–273–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 727 airplanes. This proposal would require an inspection of the bolts used to attach the forward cone bolt to the engine flange to determine if the attachment bolts are either H–11 steel bolts or cadmium-plated bolts. This proposal would also require replacement of either H–11 steel bolts or cadmium-plated bolts with new corrosion-resistant steel bolts. This action is necessary to prevent undetected cracking of the H–11 bolts or excessive wear of the cadmium-plated bolts, which would compromise the primary load path of the engine support and could result in separation of the engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by December 19, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–273–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–273–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6437; fax (425) 917–6590.

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 shall 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.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

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 2002–NM–273–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–273–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that H–11 steel bolts used to attach the forward cone bolt to the engine flange of Boeing Model 727 airplanes are susceptible to stress corrosion cracking, although no reports of related cracking have been received. Also, the cadmium-plated bolts that were also used in production are not sufficiently wear-resistant for the application. This condition, if not corrected, could compromise the primary load path of the engine support, which could result in separation of the engine from the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 727–71A0402, dated January 18, 2001, which describes procedures for inspecting the

bolts that are used to attach the forward cone bolt to the engine flange to determine if H–11 steel bolts or cadmium-plated bolts are installed. The service bulletin also describes procedures for replacing H–11 steel bolts or cadmium-plated bolts with corrosion-resistant steel bolts. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although Boeing Alert Service Bulletin 727–71A040s, dated January 18, 2001, recommends that the affected bolts be inspected and replaced at the next convenient scheduled maintenance period not to exceed 3,000 flight cycles, this proposal would require that the affected bolts be inspected and replaced within 18 months or 3,000 flight cycles from the effective date of this AD, whichever is earlier.

Cost Impact

There are approximately 1,148 Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 715 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $139,425, or $195 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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 adding the following new airworthiness directive:

Boeing: Docket 2002–NM–273–AD.

Applicability: All Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent undetected cracking of the H–11 steel bolts or cadmium-plated bolts, which would compromise the primary load path of the engine support and could result in separation of the engine from the airplane, accomplish the following:

Inspection and Replacement

(a) Within 18 months or 3,000 flight cycles from the effective date of this AD, whichever is earlier, inspect the bolts that are used to attach the forward cone bolt to the engine flange to determine if they are H–11 steel bolts (part number (P/N) BACB30GU12–64), cadmium-plated bolts (P/N BACB30LM12–64), or corrosion-resistant bolts (P/N NAS6712E64), per the Accomplishment Instructions of Boeing Alert Service Bulletin 727–71A0402, dated January 18, 2001.

(1) If corrosion-resistant bolts (P/N NAS6712E64) are installed, no further action is required by this paragraph.

(2) If any H–11 steel bolt or cadmium-plated bolt is found, before further flight, replace the bolt with a new corrosion-resistant bolt (P/N NAS6712E64), according to the Accomplishment Instructions in the service bulletin.

Parts Installation

(b) As of the effective date of this AD, no person may install an H–11 steel bolt (P/N BACB30GU12–64) or a cadmium-plated bolt (P/N BACB30LM12–64) to attach the forward cone bolt to the engine flange on any airplane.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

Issued in Renton, Washington, on October 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–27671 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–219–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, that would have superseded an existing AD that currently requires repetitive inspections to find cracks, fractures, or corrosion of each carriage spindle of the left and

right outboard mid-flaps; and corrective action, if necessary. The proposed AD would also have mandated the previously optional overhaul or replacement of the carriage spindles, which would have ended the repetitive inspections required by the existing AD. This new action revises the proposed rule by adding a new requirement to the nickel plating procedures and extending the compliance time for the overhaul or replacement. The actions specified by this new proposed AD are intended to prevent severe flap asymmetry due to fractures of the carriage spindles on an outboard mid-flap, which could result in reduced control or loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by December 1, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–219–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Robert Hardwick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6457; fax (425) 917–6590.

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 shall 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.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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 2002–NM–219–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on March 4, 2003 (68 FR 10188). That NPRM (the ''original NPRM'') proposed to supersede AD 2002–22–05, amendment 39–12929 (67 FR 66316, October 31, 2002), which is applicable to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That proposal would have continued to require repetitive inspections to find cracks, fractures, or corrosion of each carriage spindle of the left and right outboard mid-flaps; and corrective action, if necessary. That NPRM also proposed to mandate the previously optional overhaul or replacement of the carriage spindles, which would end the repetitive inspections required by the existing AD. Fractures of the carriage spindles on an outboard mid-flap could result in severe flap asymmetry and consequent reduced control or loss of controllability of the airplane.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the original NPRM. Some of the comments have resulted in changes to the original NPRM.

Request To Change Maximum Thickness of Nickel Plating

One commenter, the manufacturer, asks that the maximum thickness of the nickel plating, as specified in paragraph (d)(2) of the original NPRM, be changed. The commenter provides substantiating data which show that, since the rate of plating is directly related to the rate of hydrogen generation in the plating process, limiting the deposition rate more efficiently minimizes hydrogen generation during plating and reduces the potential for hydrogen embrittlement of the part. The commenter asks that paragraph (d)(2) be changed to read, ''After initial application of the plating current and during the plating process, the rate of plating deposit must be maintained between .001-inch-per-hour and a maximum of .002-inch-per-hour.''

The FAA partially agrees with the commenter. The material and configuration of the outboard flap carriage are such that there is increased concern for hydrogen embrittlement in the large diameter of the spindle region. After reviewing the service experience and finding no other existing related requirements, the FAA finds it necessary to include the plating requirements in this AD. Controlling the deposition rate is a direct method of controlling the quality of the plate and generation of hydrogen during the plating process. The absorption and diffusion of hydrogen into the metal during the plating process leads to a condition known as ''hydrogen embrittlement.'' Metals affected by hydrogen embrittlement have reduced ductility and may prematurely fail during normal usage due to this condition. The original requirement of 0.020-inch-per-plating/baking cycle did not control the deposition rate, and

there were wide variations. High deposition rates produce high rates of hydrogen and poor-quality grain structure. The key parameter of 0.002-inch-per-hour maximum deposition rate (which is a more stringent requirement) provides a safeguard against high deposition rates. There is no significant detrimental effect from low deposition rates, so the minimum requirement requested will not be included. Therefore, we have changed paragraph (d)(2) of this supplemental NPRM to read, ''The maximum thickness of the nickel plating that is deposited in any one plating/baking cycle must not exceed 0.002-inch-per-hour.''

Request To Remove Nickel Plating Requirement

One commenter asks that the nickel plating requirement specified in paragraph (d)(2) of the original NPRM be removed. The commenter states that if it performs the nickel plating per the new requirement, it must perform a minimum of three plating/baking cycles, which would extend the time necessary for overhaul of the carriage spindle by 15 days. The commenter suggests two alternative methods to use in place of the current proposed requirement, and provides documentation showing those methods.

We do not concur that the nickel plating requirement should be removed. However, as explained under ''Request to Change Maximum Thickness of Nickel Plating,'' we have changed paragraph (d)(2) of this supplemental NPRM to read, ''The maximum deposition rate of the nickel plating that is deposited in any one plating/baking cycle must not exceed 0.002-inch-per-hour.'' No other change to the supplemental NPRM is necessary in this regard.

Requests To Extend Compliance Time

Several commenters request that the compliance time for the overhaul or replacement specified in paragraphs (c), (c)(1), and (c)(2) of the original NPRM be extended as follows:

• One commenter states that the proposed compliance time of 1 year after the effective date of the AD to replace the carriage spindles on Model 737–200C series airplanes is restrictive. The commenter asks that it be changed, due to inspection results, from ''1 year after the effective date of this AD'' to 24 to 36 months after the effective date, to allow time for procurement/overhaul of the spindles and to schedule the airplane during a heavy maintenance check. The commenter also states that the proposed compliance time of 2 years after the effective date of the AD to replace the spindles on Model 737–400 series airplanes is also restrictive. The commenter asks that the compliance time be changed, due to inspection results, to 36 to 48 months after the effective date, to allow time for procurement/overhaul of spindles and to schedule the airplane during a heavy maintenance check.

• One commenter asks that carriage spindles that were overhauled per Boeing 737 Component Maintenance Manual 57–53–36 before the effective date of AD 2002–22–05, and have not had all finishes and plating removed, be allowed to remain in service on the airplane for 8 years or 12,000 flight cycles, whichever comes later. The commenter adds that it has found no fractured carriage spindles to date. The commenter also asks that we allow 30 months instead of 24 months to overhaul or replace with new, any in-service carriage spindles that have not been overhauled per the referenced service bulletin. The commenter states that this would allow scheduling of the replacement of the carriage spindle during the current maintenance program without undue burden to its in-service operations.

• One commenter states that it currently has 52 Model 737–200 and 26 Model 737–300 series airplanes that would be affected by the original NPRM and has insufficient data for identifying the date each carriage spindle was overhauled or replaced during heavy maintenance visits. The commenter adds that, due to this fact, it would be forced to overhaul/replace the carriage spindles at the earliest time allowed, which is within 1 year for Model 737–200 series airplanes and 2 years for Model 737–300 series airplanes. The commenter notes that the manufacturer is unable to supply new carriage spindles to operators at a rate that would allow the replacement to be done within the time allotted. For Model 737–300 series airplanes, the manufacturer is producing about two carriage spindles per month, and overhaul of the part using an outside vendor takes approximately 3–4 weeks per airplane. With this turnaround time, the commenter would be unable to overhaul the parts in the timeframe required by the original NPRM. The commenter makes no specific request. We infer that the commenter is requesting that the compliance time be extended.

• One commenter asks that the compliance time for the initial overhaul specified in paragraph (c) of the original NPRM be extended to 2.5 years. The commenter states that, in order to install overhauled carriages on an aircraft, the flaps must be removed and reinstalled. The commenter adds that it performs a one-quarter D-check every 2.5 years, and this structural visit is the opportune time to perform such extensive maintenance.

• One commenter asks that the initial compliance times for the overhaul on Model 737–100/200 series airplanes and 737–300/400/500 series airplanes be extended to at least 3 years and 4 years, respectively, for the following reasons:

First, the compliance time for the initial inspection does not appear to account for the nondestructive test (NDT) inspection referenced in both the service bulletin and the existing AD. The commenter adds that the inspection in the referenced service bulletin is effective as an interim action in maintaining airplane safety, which indicates there are no urgent reasons to adhere to the short compliance time specified in the service bulletin for the spindle overhaul/replacement.

Second, the carriage spindle overhaul requirement means, in the commenter's case, that the spindle will have to be shipped off-site, which would require additional spares support. The short initial compliance timeframe creates a surge in demand for spares during the first 1 to 2 years. After that time, all additional spares acquired by the operators would sit on the shelf because that demand would go away for the remainder of the 8-year period until the next overhaul.

Third, due to the short initial compliance time, operators will have to remove the flaps outside the regularly scheduled maintenance visits to gain access. According to the procedures in the Boeing 737–300/–400/–500 Maintenance Planning Document D6–38278, the commenter estimates that the initial compliance time should be between 6 and 8 years for Model 737–300, –400, and –500 series airplanes, and between 6 and 10 years for Model 737–100 and –200 series airplanes.

In conclusion, the commenter states that, with immediate safety concerns already addressed in paragraph (a) of the original NPRM, increasing the compliance time specified in paragraph (c) of the original NPRM would allow accomplishment of the actions at regular maintenance intervals and would avoid a sudden demand for spares.

• One commenter asks that the compliance time specified in paragraph (c)(2)(ii) of the original NPRM (for the spindle overhaul/replacement) be changed to read, ''Not later than the next major maintenance (D-check), and, until that time, repeat the NDT inspection of the spindles per the existing AD.'' The commenter states that

airplanes that have accumulated more than 12,000 total flight cycles, and exceeded the 8-year limitation, will be subject to the proposed 2-year compliance time. The commenter adds that, since no seed units have been provided by Boeing, procurement of the spindle is expensive, and the turnaround time is expected to be 20 days, there is no reason to ground the airplane and send the spindle for overhaul without having any spares.

- One commenter states that it will take about a year to obtain parts after ordering them, and the overhaul cannot be completed until the parts are received. The commenter states that it will be impossible to overhaul/replace the flap carriage within the proposed 2-year compliance time.
- One commenter asks for a change in the compliance time specified in paragraph (c) of the original NPRM from 12,000 flight cycles or 8 years, whichever occurs first, to 20,000 flight cycles or 8 years in-service, whichever occurs first. The commenter states that the additional flight-cycle allowance would allow the work to be done at every other D-check where time and resources to overhaul/replace the spindles are available. The commenter requests that this change apply to both the original inspection and the overhaul/replacement requirements.
- One commenter asks that we evaluate the requirement to overhaul or replace the spindles every 12,000 flight cycles or 8 years, based on inspection results and parts replacement costs. The commenter adds that the repetitive inspection intervals required by paragraph (a) of the proposed AD should be extended from 180 days to 18 months, so the airplane can be scheduled for inspection during heavy maintenance check intervals.
- One commenter states that mandating the overhaul of the carriage spindles every 8 years or 12,000 flight cycles, whichever is sooner, will have a significant cost impact on its fleet. The commenter adds that, under the current maintenance program, the carriage spindles are overhauled every 8 years, which, at current flying rates, equates to about 18,000 flight cycles. Therefore, a 12,000-flight-cycle compliance time would require overhaul at every heavy maintenance check, thereby doubling the overhaul cost. The commenter proposes that the carriage spindles remain in service until the 8-year limit is reached, provided the 180-day repetitive inspections are reinstated once the airplane reaches 12,000 flight cycles. The commenter states that this would provide an equivalent level of safety and give operators a significant cost benefit.

We agree to extend the initial compliance time somewhat. In revising this compliance time, we considered the safety implications, parts availability, and typical maintenance schedules of affected operators. In addition, the repetitive NDT inspections required by the existing AD, and restated in paragraph (a) of this supplemental NPRM, will allow operators more time to schedule maintenance and ensure safety in the interim until accomplishment of the overhaul or replacement. We have extended the compliance time specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this supplemental NPRM to the later of the following: ''Before the accumulation of 20,000 total flight cycles on the carriage spindle, or within 8 years since overhaul of the spindle or installation of a new spindle, whichever is first,'' or ''Within 2 years after the effective date of this AD.'' We have extended the compliance time specified in paragraphs (c)(2)(i) and (c)(2)(ii) of this supplemental NPRM to the later of the following: ''Before the accumulation of 20,000 total flight cycles on the carriage spindle, or within 8 years since overhaul of the spindle or installation of a new spindle, whichever is first,'' or ''Within 4 years after the effective date of this AD.'' We have also extended the compliance time in paragraph (c) of this supplemental NPRM for the repetitive overhaul or replacement to every 20,000 flight cycles or 8 years, whichever is first. Extending the compliance time will not adversely affect safety but will accommodate the time necessary for the operators to obtain replacement parts and schedule the work.

We do not agree to extend the repetitive inspection intervals required by paragraph (a) of the supplemental NPRM; those inspections end when the overhaul or replacement specified in paragraph (c) of this supplemental NPRM is done. In developing an appropriate compliance time for the repetitive inspections, we considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, and the practical aspect of accomplishing the repetitive inspections within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. No change to the supplemental NPRM is necessary in this regard.

Request To Change Compliance Time to Calendar Time

One commenter contends that corrosion associated with the identified unsafe condition is a function of time rather than flight cycles. We infer that the commenter requests that the original NPRM be revised to reflect a compliance time for the spindle overhaul/replacement in terms of calendar time rather than flight cycles. We do not agree to use a calendar date in the AD because the compliance time in this case is a function of fleet utilization, which is unrelated to calendar dates. No change to the supplemental NPRM is necessary in this regard.

Request for Credit for Previously Overhauled Carriage Spindles

One commenter asks that the carriage spindles overhauled before issuance of AD 2002–22–05 (no finish/plating required) remain in service for 8 years or 12,000 flight cycles, whichever comes first. The commenter has been proactive on this issue, and started carriage spindle overhauls prior to the effective date of the original NPRM. The commenter adds that no fractured carriage spindles have been found to date.

We do not agree with the commenter. Although we acknowledge the fact that the commenter has not had any carriage spindle failures and maintains a good track record for diligent completion of AD requirements, many operators have been working to overhaul their fleets before the release of the AD in order to minimize the impact on the fleet. In light of the fact that the finish/plating removal was not required before issuance of AD 2002–22–05, carriage spindles that were overhauled before issuance of that AD may not have had the finishes/platings removed, and would not be compliant with that AD. Therefore, no change to the supplemental NPRM is necessary in this regard.

Request To Accept Alternative Methods of Compliance (AMOCs) Approved for AD 2002–22–05

Two commenters ask that the original NPRM be revised to accept certain AMOCs previously approved for AD 2002–22–05. One commenter states that the original NPRM does not have a provision for such AMOCs, and asks that a paragraph be added for previously approved AMOCs for paragraphs (a) and (b) of the original NPRM. The commenter recognizes that it would not be able to use previously approved AMOCs after paragraph (c) of the supplemental NPRM is accomplished.

Another commenter asks that we allow for optional tracking of the carriage part and serial number instead of the aircraft serial number to demonstrate compliance. The commenter states that it currently has an AMOC approved for AD 2002–22–05 that addresses this situation.

We agree with the commenters' requests to accept certain AMOCs approved previously for AD 2002–22–05. We have added a new paragraph (f)(2) to this supplemental NPRM to include AMOCs previously approved for AD 2002–22–05. Regarding optional tracking of the carriage part and serial number instead of the airplane serial number, the commenter may submit substantiating data that support a request for an AMOC for this proposed AD per paragraph (f)(1) of this proposed AD.

Request To Require Additional AD for Carriage Spindle Only

One commenter states that paragraph (d) of the original NPRM describes two constraints on the overhaul process. The commenter notes that paragraph (d)(1) of the original NPRM specifies the maximum time allowed before carrying out the hydrogen embrittlement procedure, and paragraph (d)(2) of the original NPRM defines the maximum thickness of nickel plating that can be done at any one plating/baking cycle. The commenter adds that the Boeing Standard Operating Procedures Manual for nickel plating includes the requirements specified in paragraph (d)(1), but the maximum plating requirements specified in paragraph (d)(2) are not included in the Boeing Component Maintenance Manual (CMM) 57–53–56, so compliance cannot be assumed by following the procedures in the CMM. The commenter is concerned that if these elements are required in an AD, there is a possibility that a flap carriage may be overhauled without reference to the AD, and subsequently, since there is no mechanism to prevent it, passed back to the operator without evidence of compliance with requirements. The commenter suggests that, if the relevant amendments are not placed in the CMM (against which the overhaul is to be performed before the effective date of the AD), a component AD against the flap carriage assemblies should be issued to ensure that the overhaul requirements are both complied with and certified as such before the assemblies are passed on to an operator. The commenter adds that the magnetic particle inspection addresses only the carriage, not the carriage spindle.

We do not agree with the commenter. Overhaul manuals are not FAA-approved documents. Updating these manuals is done by the original equipment manufacturer for the benefit of the operators. When an unsafe condition exists, we issue an AD to correct that condition, and, if additional safeguards are required as part of the mandated action, those safeguards are included in the text of the AD, unless mandated in other rulemaking actions. Ultimately, it is the responsibility of the operator to ensure compliance with any ADs that affect the operator's fleet. No change to the supplemental NPRM is necessary in this regard.

Request To Remove or Change Paragraph (a)

One commenter asks that the current inspections that would be required by paragraph (a) of the original NPRM be removed or changed as they are ineffective for finding cracks. The commenter states that it performed the inspections and, approximately 10 days later, a carriage spindle severed during flight. The commenter does not see any benefit in performing the current inspections.

We do not agree with the commenter. The inspections mandated by AD 2002–22–05 are designed to find a fully failed spindle before the second spindle fails due to load redistribution from the failed spindle. AD 2002–22–05 is required to safeguard against a dual-spindle failure. Further, the carriage spindle is manufactured from high strength steel, which is a material not generally conducive to damage tolerance methods. No change to the supplemental NPRM is necessary in this regard.

Request To Add the Repetitive Overhaul in Paragraph (c) to the Operator's Time Limit Index

One commenter asks that paragraph (c) of the original NPRM, which requires repetitive overhaul of the carriage spindles every 12,000 flight cycles or 8 years, whichever is first, be incorporated into an Operator's Time Limit Index (Hard Time Component Program). The commenter states that this can be done by adding the following statement to paragraph (c): ''Operators may incorporate the overhaul requirement into the FAA-approved maintenance program if the Principal Maintenance Inspector (PMI) approves that action.'' The commenter adds that this would allow the PMI to approve the action, when appropriate, without a concern that it violates the Code of Federal Regulations.

We do not agree with the commenter. To include the overhaul of this part in a particular overhaul program would be an operations-dependent procedure and cannot be done as a general option. The commenter provides no data to substantiate that its request would provide an acceptable level of safety. However, an affected operator may request approval of an AMOC, as provided by paragraph (f)(1) of this AD, if data are submitted to support that an alternative method would provide an acceptable level of safety. No change to the supplemental NPRM is necessary in this regard.

Request To Change Cost Impact Section

Two commenters ask the Cost Impact section of the original NPRM be changed, as follows:

- One commenter states that the estimated cost of the replacement of the carriage spindle ($45,000 per spindle, and $10,000 per spindle for the overhaul) does not include the out-of-service time and work hours necessary.
- One commenter states that the ''short'' initial compliance time would require operators to remove flaps outside their routine maintenance program, which would take an additional 192 work hours per airplane. The commenter estimates the additional labor cost at over $500,000. The commenter adds that the overhaul of the carriage spindle will require additional spare carriage spindles over the short initial compliance timeframe. Based on an overhaul turnaround time of 30 days, the commenter estimates it would need up to six shipments of spare carriage spindles at a cost of approximately $1.2 million. All these spares would then not be used for the remainder of the 8-year period until the next overhaul. In addition, the commenter notes that the cost for overhauling the carriage spindle is almost $100,000, based on the cost estimate per airplane provided in the original NPRM.

We do not agree with the commenters. The cost impact information describes only the costs of the specific actions required by this AD. The number of work hours necessary to accomplish the overhaul or replacement, as specified in the cost impact information, is consistent with the service bulletin. This number represents the time necessary to perform only the actions actually required by this AD. We recognize that, in accomplishing the requirements of any AD, operators may incur additional costs due to special circumstances when scheduling maintenance visits. However, because maintenance schedules vary significantly from operator to operator,

the hours necessary for access and close-up time, including out-of-service time, are almost impossible to calculate. No change to the supplemental NPRM is necessary in this regard.

Conclusion

Since certain changes described previously expand the scope of the original NPRM, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

Change in Labor Rate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

There are approximately 3,132 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,384 airplanes of U.S. registry would be affected by this proposed AD.

The inspections that are currently required by AD 2002–22–05 take approximately 10 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be $899,600, or $650 per airplane.

It would take approximately 2 work hours per airplane to accomplish the new detailed inspection, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $179,920, or $130 per airplane, per inspection cycle.

Should an operator be required to accomplish the overhaul, it would take approximately 32 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the overhaul proposed by this AD is estimated to be $2,080 per airplane.

Should an operator be required to accomplish the replacement, it would take approximately 32 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts would cost approximately $45,000 per carriage spindle. Based on these figures, the cost impact of the replacement proposed by this AD is estimated to be $47,080 per spindle, per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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 39–12929 (67 FR 66316, October 31, 2002), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2002–NM–219–AD. Supersedes AD 2002–22–05, Amendment 39–12929.

Applicability: All Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent severe flap asymmetry due to fractures of the carriage spindles on an outboard mid-flap, which could result in reduced control or loss of controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 2002–22–05

Repetitive Inspections

(a) Do general visual and nondestructive test (NDT) inspections of each carriage spindle (two on each flap) of the left and right outboard mid-flaps to find cracks, fractures, or corrosion at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable, per the Work Instructions of Boeing Alert Service Bulletin 737–57A1277, dated July 25, 2002. Thereafter, repeat the inspections at intervals not to exceed 180 days until paragraph (b) or (c) of this AD is done, as applicable.

(1) Before the accumulation of 12,000 total flight cycles or 8-years-in-service on new or overhauled carriage spindles, whichever is first.

(2) Within 90 days after November 15, 2002 (the effective date of AD 2002–22–05, amendment 39–12929).

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Corrective Action

(b) If any crack, fracture, or corrosion is found during any inspection required by

paragraph (a) of this AD: Before further flight, do the applicable actions for that spindle, as specified in paragraph (b)(1) or (b)(2) of this AD, per the Work Instructions of Boeing Alert Service Bulletin 737–57A1277, dated July 25, 2002. Thereafter, repeat the inspections required by paragraph (a) of this AD at intervals not to exceed 12,000 flight cycles or 8 years, whichever is first, on the overhauled or replaced spindle only.

(1) If any corrosion is found in the carriage spindle, overhaul the spindle.

(2) If any crack or fracture is found in the carriage spindle, replace with a new or overhauled carriage spindle.

Note 2: Although Boeing Alert Service Bulletin 737–57A1277, dated July 25, 2002, recommends that operators report inspection findings of any crack or fracture in the carriage spindle to the manufacturer, this AD does not contain such a reporting requirement.

New Requirements of This AD

Overhaul or Replacement

(c) Overhaul or replace, as applicable, all four carriage spindles (two on each flap) of the left and right outboard mid-flaps at the applicable time specified in paragraph (c)(1) or (c)(2) of this AD, per the Work Instructions of Boeing Alert Service Bulletin 737–57A1218, Revision 3, dated July 25, 2002. Thereafter, repeat the applicable overhaul or replacement at intervals not to exceed 20,000 flight cycles or 8 years, whichever is first. Accomplishment of this paragraph ends the repetitive inspections required by paragraphs (a) and (b) of this AD.

(1) For Model 737–100, –200, and –200C series airplanes, overhaul or replace at the later of the times specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this AD.

(i) Before the accumulation of 20,000 total flight cycles on the carriage spindle, or within 8 years since overhaul of the spindle or installation of a new spindle, whichever is first.

(ii) Within 2 years after the effective date of this AD.

(2) For Model 737–300, –400, and –500 series airplanes, overhaul or replace at the later of the times specified in paragraphs (c)(2)(i) and (c)(2)(ii) of this AD.

(i) Before the accumulation of 20,000 total flight cycles on the carriage spindle, or within 8 years since overhaul of the spindle or installation of a new spindle, whichever is first.

(ii) Within 4 years after the effective date of this AD.

(d) During accomplishment of any overhaul required by paragraph (c) of this AD, use the procedures specified in paragraphs (d)(1) and (d)(2) of this AD during application of the nickel plating of the carriage spindle in addition to those specified in Boeing 737 Standard Overhaul Practices Manual, Chapter 20–42–09.

(1) Begin the hydrogen embrittlement relief bake within 10 hours after application of the plating, or less than 24 hours after the current was first applied to the part, whichever is first.

(2) The maximum deposition rate of the nickel plating that is deposited in any one plating/baking cycle must not exceed 0.002-inch-per-hour.

(e) Overhauling or replacing the carriage spindles before the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–57A1277, dated July 25, 2002, is considered acceptable for compliance with the overhaul or replacement specified in paragraph (c) of this AD.

Alternative Methods of Compliance

(f)(1) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

(2) Alternative methods of compliance, approved previously per AD 2002–22–05, amendment 39–12929, are approved as alternative methods of compliance with paragraphs (a) and (b) of this AD.

Issued in Renton, Washington, on October 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–27672 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–225–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Beech 400A and 400T Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Raytheon Model Beech 400A and 400T series airplanes. This proposal would require an inspection to determine the part number of the A194 roll trim printed circuit board (PCB), and replacement of certain PCBs with improved parts. This action is necessary to prevent intermittent sticking of the relays on the PCB in either the open or closed position, which could result in an out-of-trim condition that could require using considerable control wheel force to keep the wings level, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by December 19, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–225–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–225–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Philip Petty, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4139; fax (316) 946–4407.

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 shall 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.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

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 2002–NM–225–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–225–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that the roll trim tab on certain Raytheon Model Beech 400A and 400T series airplanes operated to a fully deflected position while the other trim tab remained in neutral. This condition can be caused by premature failure of the relays used on the existing printed circuit board (PCB), which may stick intermittently in either the open or closed position. In most of the cases reported, the autopilot was engaged. In some instances, the flightcrew is alerted to this condition by the illumination of a yellow, boxed letter ''A'' annunciator on the primary flight display (PFD) and/or slow rotation of the control wheel away from the neutral position. The annunciator on the PFD indicates the spoiler servo torque load is high and may indicate an out-of-trim condition.

Reports indicate that flightcrew action is to disengage the autopilot and attempt to manually retrim the fully deflected roll trim tab. The flightcrews have reported to the manufacturer that this method has proven to be ineffective in some cases due to no movement from the deflected trim tab or no movement from the opposite trim tab. Recently, one crew reported that both trim tabs became fully deflected in opposite directions when the flightcrew attempted to trim one of the tabs from the neutral position. The resultant condition required high spoiler surface deflection angles to compensate for the out-of-trim condition while at cruise.

Intermittent sticking of the relays on the PCB in either the open or closed position could result in the roll trim tab operating to a fully deflected position while the other trim tab remained in neutral, which could result in an out-of-trim condition that could require using considerable control wheel force to keep the wings level, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Service Bulletin SB 27–3464, dated December 2001, which describes procedures for an inspection to determine the part number of the A194 roll trim PCB, and replacement of certain PCBs with improved parts that have demonstrated longer operational capability. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between the Service Bulletin and This Proposed AD

The service bulletin specifies that the appropriate part number for the replacement PCB is 128–364122–7; however, this AD allows installation of replacement PCBs having part number 128–364122–7 or higher (*i.e.,* 128–364122–9, –11, etc.).

Cost Impact

There are approximately 467 airplanes of the affected design in the worldwide fleet. The FAA estimates that 430 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $27,950, or $65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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 adding the following new airworthiness directive:

Raytheon Aircraft Company (Formerly Beech): Docket 2002–NM–225–AD.

Applicability: Model Beech 400A series airplanes having serial numbers RK–45, and RK–49 through RK–322 inclusive; and Model 400T series airplanes having serial numbers TT–1 through TT–180 inclusive, and TX–1 through TX–12 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent intermittent sticking of the relays on the roll trim printed circuit board (PCB) in either the open or closed position, which could result in an out-of-trim condition that could require using considerable control wheel force to keep the wings level, and consequent reduced controllability of the airplane, accomplish the following:

Inspection and Replacement, if Necessary

(a) Within 200 flight hours or 6 months after the effective date of this AD, whichever occurs first, perform an inspection to determine the part number of the A194 roll trim PCB, in accordance with Raytheon Service Bulletin SB 27–3464, dated December 2001.

(1) If the A194 roll trim PCB has a part number of 128–364122–7 or higher (*i.e.,* 128–364122–9, –11, etc.): No further action is required by this paragraph.

(2) If the A194 roll trim PCB does not have a part number of 128–364122–7 or higher: Before further flight, replace the A194 roll trim PCB with a PCB having a part number of 128–364122–7 or higher, in accordance with the service bulletin.

Parts Installation

(b) As of the effective date of this AD, no person may install on any airplane an A194 roll trim PCB having part number 128–364122–1 or 128–364122–5.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, Wichita Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

Issued in Renton, Washington, on October 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–27669 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–1999–6550; Notice 3]

RIN 2127–AI63

Federal Motor Vehicle Safety Standards; Hydraulic and Electric Brake Systems

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this document, NHTSA proposes to amend the Federal motor vehicle safety standard on hydraulic and electric brake systems to include an option for the use of a roll bar structure during specified testing of brake systems in single unit trucks and buses. This option is already available during similar testing of air braked trucks and buses. We tentatively conclude that permitting the use of a roll bar structure would help protect drivers and technicians in the event of a rollover during testing of hydraulically-braked trucks and buses. The safety of drivers and technicians is a primary concern during vehicle testing. The use of a roll bar structure would offer protection to the drivers and technicians performing brake tests conducted at lightly loaded vehicle weight.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than January 5, 2004.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number NHTSA–1999–6550] by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Submission of Comments heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Samuel Daniel Jr., Safety Standards Engineer, Office of Crash Avoidance Standards, Vehicle Dynamics Division, at (202) 366–4921, and fax him at (202) 493–2739.

For legal issues, you may call Christopher Calamita of the NHTSA Office of Chief Counsel, at (202) 366–2992, and fax him at (202) 366–3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

I. Background

NHTSA has two brake standards for medium and heavy vehicles. Federal Motor Vehicle Safety Standard (FMVSS) No. 105, *Hydraulic and electric brake systems,* applies to vehicles with hydraulic brakes. FMVSS No. 121, *Air brake systems,* applies to vehicles with air brakes.

FMVSS No. 105 and 121 have similar brake performance requirements, but the two standards differ with respect to their specifications concerning the use of a roll bar during these tests. Roll bars are sometimes added to vehicles for brake testing if there are concerns about a possible vehicle rollover.

Air braked vehicles—roll bar use in braking-in-a-curve test. On March 10, 1995, NHTSA published a final rule amending FMVSS No. 121 requiring all air braked vehicles to be equipped with antilock brake systems (ABS) (60 FR 13216). The amendments to FMVSS No. 121 included a braking-in-a-curve performance test for truck tractors. Due to concern of potential vehicle rollover, the agency also included a manufacturer's option for using a roll bar structure during performance of that test at lightly loaded vehicle weight (LLVW). Loading of a vehicle to test at the gross vehicle weight rating (GVWR) already afforded manufacturers the opportunity to use a roll bar structure.

Air braked vehicles—roll bar use in straight line stop and parking brake grade holding tests. In response to a petition from the Truck Manufacturers Association, we published a final rule correcting and clarifying the air brake standard (66 FR 64154; December 12, 2001). The December 2001 final rule permitted the use of a roll bar structure for vehicles tested at lightly loaded vehicle weight in certain FMVSS No. 121 tests, including the 60 mph straight-line stop and the parking brake grade holding tests. In extending the option

for using a roll bar structure to these tests, we determined that the roll bar option is equally appropriate for tractors as well as single-unit vehicles.

Hydraulic braked vehicles—roll bar use in braking-in-a-curve test. On August 11, 2003, NHTSA published a final rule for braking-in-a-curve test requirements for ABS equipped single-unit trucks and buses with a GVWR greater than 10,000 pounds (68 FR 47485). Again, the concerns regarding possible rollover led NHTSA to grant manufacturers the option to use a roll bar structure for single-unit trucks and buses undergoing the braking-in-a-curve test under FMVSS No. 105.

II. Proposal To Permit Use of Roll Bar in Additional Brake Performance Tests of Hydraulically-Braked Trucks and Buses

In this document, we are proposing to amend FMVSS No. 105 to give manufacturers the option of using a roll bar structure for medium and heavy vehicles during additional brake testing at lightly loaded vehicle weight. Performance testing of brake systems at LLVW on vehicles with a GVWR greater than 10,000 pounds may result in vehicle rollover because of the configuration of these vehicles. Trucks and buses with a GVWR greater than 10,000 pounds often have a high center of gravity resulting in a low rollover threshold. Rollover threshold is the lateral acceleration at which a vehicle will roll over and for trucks and buses with a GVWR greater than 10,000 pounds it is usually 0.5 g or less. In contrast, a typical light vehicle has a rollover threshold between 0.8 g and 1.2 g. For tests performed at GVWR, manufacturers can already include roll bar structure weight in the vehicle weight to provide test drivers and technicians additional safety. This proposal would permit, at manufacturer's option, the use of a roll bar structure on these vehicles undergoing testing at LLVW.

Hydraulically-braked vehicles with a GVWR greater than 10,000 pounds must meet the requirements of FMVSS No. 105, including 60 mph straight-line stopping distance requirements and, for heavy school buses, parking brake requirements. During straight line stop testing, an equipment malfunction or a problem with the ABS can create the potential for these trucks and buses to yaw. Because of the low rollover threshold, these vehicles may roll over if they experience yaw at test speeds. During the parking brake test, while the vehicle is in the forward direction on a 20 percent grade, a failure of the brake system on one side of the vehicle can also cause the vehicle to yaw and perhaps roll over.

Currently, heavy school buses are the only vehicles with a GVWR greater than 10,000 pounds required by FMVSS No. 105 to meet the parking brake requirements. However, the agency has requested comments on a proposal that would require all hydraulically braked vehicles with a GVWR greater than 10,000 pounds to have parking brakes that meet these same requirements (67 FR 66098).

The agency also notes that single-unit trucks with a GVWR greater than 10,000 pounds may undergo brake system testing either as completed trucks or as chassis-cabs without bodies or equipment that would normally be installed by a final-stage manufacturer. A completed vehicle is likely to have more structure to protect a test driver than an incomplete vehicle. If a completed truck were to roll over, the impact force would be distributed across the body and cab of the truck. In the absence of a body or additional equipment during testing of a chassis-cab, the vehicle cab would receive a greater impact force during a rollover, increasing the potential of harm to the driver. Permitting the use of a roll bar would allow manufacturers to provide additional protection for the test driver in the event of a rollover.

The same concerns for vehicle rollover present in testing for FMVSS No. 121 are present in testing for FMVSS No. 105. Under FMVSS No. 121, NHTSA gives manufacturers the option of using a roll bar structure on trucks and buses tested at LLVW to improve safety for test drivers and technicians. This proposed amendment would permit the use of a roll bar structure on any vehicle with a GVWR greater than 10,000 pounds during FMVSS No. 105 compliance testing of the parking brake system at LLVW, the service brake system at LLVW, and the service brake system in partial failure mode at LLVW.

III. Compliance Date

The amendments proposed here do not impose any new requirements. Instead, the agency proposal would simply allow manufacturers the option of a roll bar as an added safety measure during the specified compliance tests. Since these proposed amendments would relieve a restriction and promote safety for test drivers, NHTSA proposes that they become effective 30 days after publication of the final rule in the **Federal Register**.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

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

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

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

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

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

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. It is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

This document proposes to amend 49 CFR 571.105 by including a manufacturer's option for the use of a roll bar structure during the performance testing of hydraulic brake systems. The proposed amendment would allow at manufacturer's option the use of a roll bar structure when testing hydraulic braked vehicles with a GVWR greater than 10,000 pounds at lightly loaded vehicle weight. Because of the configuration of these vehicles they are susceptible to roll over during testing. We tentatively conclude that permitting the use of a roll bar structure would help protect drivers and technicians in the event of a rollover during these tests. As noted above, the amendments proposed here do not impose any new requirements. Instead, the agency proposal would simply allow manufacturers the option of a roll bar as an added safety measure during the specified compliance tests. The proposal's impacts are so small that a full regulatory evaluation was not prepared.

B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this proposed action on small entities. I hereby certify that this notice of proposed rulemaking would not have a significant impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The amendments proposed herein would primarily affect manufacturers of medium and heavy weight trucks. The Small Business Administration (SBA) regulation at 13 CFR part 121 organizes size standards according to the Standard Industrial Classification (SIC) codes. SIC code number 3711, *Motor Vehicles and Passenger Car Bodies,* prescribes a small business size standard of 1,000 or fewer employees. SIC codes No. 3714, *Motor Vehicle Part and Accessories,* prescribes a small business size standard of 750 or fewer employees.

Most of the intermediate and final stage manufacturers of vehicles built in two or more stages have 1,000 or fewer employees. However, the agency expects testing for FMVSS No. 105 to be conducted by the original equipment manufacturers, most, if not all, of which do not qualify as a small business under SBA guidelines. Further, if adopted, the proposed amendments would not require use of the roll bar structure and therefore would not require any increased costs or other burdens on truck manufacturers. The proposed amendments to FMVSS No. 105 would permit the use of a roll bar structure at the manufacturer's option, on test vehicles undergoing brake testing. Accordingly, there would be no significant impact on small businesses, small organizations, or small governmental units by these amendments. For these reasons, the agency has not prepared a preliminary regulatory flexibility analysis.

C. Executive Order No. 13132

NHTSA has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132, Federalism and has determined that this proposal does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The proposal would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

D. National Environmental Policy Act

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

E. Paperwork Reduction Act

This proposed rule does not contain any collection of information requirements requiring review under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

F. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Society of Automotive Engineers (SAE) Recommended Practice J1626 APR96, *Braking, Stability, and Control Performance Test Procedures for Air-Brake-Equipped Truck Tractors,* includes an option for using a roll bar structure for testing at LLVW. While the SAE practice applies to air braked trucks, the SAE tests performed at LLVW are similar to tests performed at LLVW under FMVSS No. 105. The proposed amendment would permit the use of a roll bar structure in a similar manner as the SAE recommended practice.

G. Civil Justice Reform

This proposal would not have any retroactive effect. Under 49 U.S.C. 21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This rulemaking would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

I. Regulation Identifier Number (RIN)

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

J. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we 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 us.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, health, or safety risks that disproportionately affect children. The proposed rule, if made final, would permit manufacturers to use a roll bar structure when testing medium and heavy hydraulic braked trucks and buses at LLVW.

K. Executive Order 13211

Executive order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply of, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If made final, this rulemaking would permit the voluntary and limited use of

a roll bar structure during brake testing. Therefore this proposal was not analyzed under E.O. 13211.

L. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

M. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

V. Submission of Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.** Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. Please note, if you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[1]

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

[1] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

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

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.105 would be amended by revising S6.1.2, S7.7.3, S7.8, and S7.9.1 to read as follows:

§ 571.105 Standard No. 105; Hydraulic and electric braking systems.

* * * * *

S6.1.2 For applicable tests specified in S7.5(a), S7.7, S7.8, and S7.9, vehicle weight is lightly loaded vehicle weight, with the added weight, except for the roll bar structure allowed for trucks and buses with a GVWR greater than 10,000 pounds, distributed in the front passenger seat area in passenger cars, multipurpose passenger vehicles, and trucks, and in the area adjacent to the driver's seat in buses.

* * * * *

S7.7.3 *Lightly loaded vehicle.* Repeat S7.7.1 or S7.7.2 as applicable except with the vehicle at lightly loaded vehicle weight or at manufacturer's option, for a vehicle with GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle.

* * * * *

S7.8 *Service brake system test—lightly loaded vehicle (third effectiveness) test.* Make six stops from 60 mph with vehicle at lightly loaded vehicle weight, or at the manufacturer's option for a vehicle with GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle. (This test is not applicable to a vehicle which has a GVWR of not less than 7,716 pounds and not greater than 10,000 pounds and is not a school bus.)

S7.9 *Service brake system test—partial failure.*

S7.9.1 With the vehicle at lightly loaded vehicle weight or at the manufacturer's option for a vehicle with a GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle, alter the service brake system to produce any one rupture or leakage type of failure, other than a structural failure of a housing that is common to two or more subsystems. Determine the control force, pressure level, or fluid level (as appropriate for the indicator being tested) necessary to activate the brake system indicator lamp. Make four stops if the vehicle is equipped with a split service brake system, or 10 stops if the vehicle is not so equipped, each from 60 mph, by a continuous application of the service brake control. Restore the service brake system to normal at completion of this test.

* * * * *

Issued on: October 29, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–27657 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 587

[Docket No. NHTSA–2003–16417]

RIN 2127–AJ11

Offset Deformable Barrier

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration submitted by Toyota Motor Corporation (Toyota). The petition asked the agency to harmonize the specifications of the offset deformable barrier (ODB) with the European standard. The agency is denying the petition because the current specifications were intentionally designed to accommodate the vehicle designs of the U.S. fleet. Further, the additional design issues raised by Toyota are performance neutral and do not justify amending the specifications.

FOR FURTHER INFORMATION CONTACT: For non-legal issues you may call Lori Summers, Office of Crashworthiness Standards, at (202) 366–1740. For legal issues, you may call Christopher Calamita, Office of the Chief Counsel, at (202) 366–2992. You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

Summary of the Petition

Toyota petitioned NHTSA to amend the ODB specifications contained in 49 CFR Part 587, for the purpose of harmonization with Economic Commission for Europe (ECE) regulation 96/79/EC, *Frontal impact.* The specifications for the ODB were published in a March 31, 2000, final rule as the first step towards using an ODB to evaluate the crashworthiness of vehicles (65 **Federal Register** 17196.) In its petition for reconsideration of the March 2000 final rule, Toyota claimed that the specified barrier height could allow the test vehicle to contact the rigid portion of the barrier, potentially affecting the results of the test. Toyota also argued that the differences in the specifications between Part 587 and the European standard were unduly burdensome on manufacturers performing compliance tests with the ODB.

Issues Raised in the Petition

In its petition for reconsideration, Toyota stated that the specifications in Part 587 allow the fixed rigid barrier portion of the ODB to be higher than the ECE barrier. Toyota argued that because of the height difference, as a vehicle crushes and rotates, it could contact the rigid portion of the barrier (the portions of the concrete block higher than the deformable barrier). The company claimed that this contact could affect the results of the test vehicle. Toyota stated that this possibility is especially true for sport utility vehicles (SUVs) and light trucks and vans (LTVs), which ride higher than passenger cars. Toyota petitioned for the minimum barrier height requirement to be harmonized with the ECE requirement.

Toyota also petitioned for an increase in the sample size of the aluminum honeycomb used to test the crush characteristics of the barrier, the removal of backing sheet material specifications, and a reduction in hole size for deformable face mounting. Toyota claimed that by harmonizing these specifications, separate test runs would not be required to meet the Part 587 and ECE specifications, reducing the burden on manufacturers.

Analysis of the Petition

Toyota expressed concern with the potential for contact between the rigid portions of the ODB and the vehicle being tested due to the barrier height specifications. Part 587.18(b) specifies that:

> The height of the fixed barrier is at least as high as the highest point on the vehicle at the intersection of the vertical transverse plane tangent to the forward most point of both front tires, when the tires are parallel to the longitudinal centerline of the vehicle, and the vertical plane through the longitudinal centerline of the vehicle.

We acknowledge that the barrier height may affect the ODB results for SUVs and LTVs, as this was our intention in establishing this height specification in the March 2000 final rule. For larger, high-riding vehicles, the agency believes that it is important for the rigid barrier height to be sufficiently high to engage the full height of the

vehicle's front structure. In testing high-riding LTVs with the ECE barrier in the ODB test configuration, the agency observed that LTVs tended to override the ECE barrier, thus transferring a larger amount of crash energy through their lower load paths. The agency is concerned that this could lead LTV and SUV manufacturers to design unnecessarily stiff lower structures to mitigate intrusion in the ODB test. Stiffening the structure of an LTV or SUV in the region where they are likely to engage with a passenger car would be detrimental to improving vehicle-to-vehicle compatibility. While encouraging a lower load path in LTVs and SUVs would enhance vehicle compatibility through improved load path engagement with passenger cars, the omission of an upper load path for the upper rails during an offset test with the ECE barrier could force some manufacturers to design considerably stiffer lower LTV and SUV structures, negating any gains from aligning the load paths.

By allowing the upper rails of the SUVs and LTVs to engage the upper portion of the Part 587 barrier, manufacturers have more flexibility in designing their front ends to allow a better distribution of force across the full height of the vehicle front structure, thus improving compatibility. Furthermore, Toyota's request for harmonization alone is not sufficient justification to amend Part 587 since the U.S. and European vehicle fleets are very different. The population of SUVs in Europe is around 5 percent of the vehicle population. In contrast, LTVs and SUVs are approximately 50 percent of U.S. vehicle sales and constitute approximately 38 percent of U.S. registrations.

We are also rejecting Toyota's claim that differences in the sample size of the honeycomb used to test the crush characteristics of the barrier, material specifications for backing material, and hole size for deformable face mounting are unduly burdensome. The agency found no difference in the force versus displacement curves for the current sample thickness and the sample thickness proposed by Toyota. (See the test data in this docket.)

Further, Toyota states that the differences in backing material and hole size specifications have no influence on barrier performance. Part 587 does not require manufacturers to follow prescribed specifications. It merely states what specifications the agency will use when we run compliance tests. If differences in specifications have no influence on barrier performance, Toyota and other manufacturers are free to use the ECE specifications in compliance testing.

Conclusion: For the reasons stated above, the agency is denying Toyota's petition for reconsideration.

Authority: 49 U.S.C. 30162; delegation of authorities at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: October 29, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–27656 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 102803A]

RIN 0648–AP03

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 13A

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 13A to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. The amendment would extend the current prohibitions on fishing for South Atlantic snapper-grouper in the experimental closed area and on retaining such species in or from the area. The experimental closed area constitutes a portion of the Oculina Bank Habitat Area of Particular Concern (HAPC), which is in the exclusive economic zone (EEZ) in the Atlantic Ocean off Ft. Pierce, FL.

DATES: Written comments must be received on or before January 5, 2004.

ADDRESSES: Written comments on Amendment 13A must be sent to Julie Weeder, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

Copies of Amendment 13A may be obtained from the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; phone: 843–571–4366 or toll free at 1–866–SAFMC–10; fax: 843–769–4520; e-mail: safmc@noaa.gov. Amendment 13A includes an Environmental Assessment (EA), an Initial Regulatory Flexibility Analysis that was supplemented by NMFS, a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Julie Weeder. telephone: 727–570–5753, fax: 727–570–5583, e-mail: Julie.Weeder@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Magnuson-Stevens Act requires a regional fishery management council to submit an amendment to a fishery management plan to NMFS for review, approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, publish a notice in the **Federal Register** stating that the amendment is available for public review and comment.

Background

In Amendment 6 to the FMP the Council proposed prohibitions on fishing for South Atlantic snapper-grouper in what is currently known as the experimental closed area and on retaining such species in or from the area. NMFS approved these prohibitions, and they became effective June 27, 1994 (59 FR 27242, May 26, 1994). In the experimental closed area, any South Atlantic snapper-grouper taken incidentally by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water.

The experimental closed area is slightly less than 92 square nautical miles in the EEZ offshore from Ft. Pierce to Sebastian Inlet, FL. The geographical coordinates are specified at 50 CFR 622.35(c)(2). The experimental closed area constitutes a portion of the southern part of the Oculina Bank HAPC. In the entire HAPC no person may: (1) use a bottom longline, bottom trawl, dredge, pot, or trap; (2) if aboard a fishing vessel, anchor, use an anchor and chain, or use a grapple and chain; or (3) fish for rock shrimp or possess rock shrimp in or from the area on board a fishing vessel.

Both the proposed and final rules for Amendment 6 stated that the measures applicable to the experimental closed area ''... will ''sunset'' after 10 years if not reauthorized by the Council.'' (59 FR 9721, March 1, 1994 and 59 FR 27242, May 26, 1994, respectively).

Measures applicable to the experimental closed area were intended to enhance stock stability and increase recruitment of South Atlantic snapper-grouper by providing an area where deepwater snapper-grouper species could grow and reproduce without being subjected to fishing mortality. The measures were based on the Council's concern that traditional fishery management measures, such as minimum size limits and quotas, might not be sufficient to protect fully the snapper-grouper resources. The Council believed the measures would provide protection for overfished species in the management unit while minimizing adverse impacts upon user groups.

Based on limited information, there appear to be some encouraging signs of positive biological impacts from the initial nine-year prohibition of fishing for snapper-grouper species within the experimental closed area since it was established in 1994. A study conducted in 2001 found that, in the few areas where habitat remained intact, there were more and larger groupers than observed in a 1995 study, and male gag and scamp were also common. The observation of male gag and scamp is particularly of interest because size, age, and proportion of males of these species have declined both in the Gulf of Mexico and South Atlantic regions. Other encouraging signs include the observation of juvenile speckled hind, which is a candidate species for listing under the Endangered Species Act. However, species in the management unit remain overfished and continued protection is required.

Proposed Actions

Amendment 13A proposes to continue the current measures applicable to the experimental closed area indefinitely. The Council would review the configuration and size of the experimental closed area within 3 years of the publication date of the final rule that would implement Amendment 13A and would re-evaluate all measures applicable to the area after 10 years.

The Council believes these actions provide the most biological, social, and economic benefits while allowing for adaptive management. Extending the prohibition on fishing for snapper-grouper species in the experimental closed area for an indefinite period will continue to protect snapper-grouper populations and protect Oculina coral and associated habitat. Such extension will also provide a hedge against the high degree of scientific uncertainty associated with the status of snapper-grouper species and reduce the possibility that these populations may fall below sustainable levels. Economically it is expected that the long-term benefits, such as ''insurance'' against the uncertainty of stock assessments and the non-use benefits of extending the prohibitions on snapper-grouper fishing in the closed area, outweigh the short-term benefits of opening the area to harvest. These measures are also expected to provide the most long-term positive social impacts because they allow for adaptive management which can be seen as an assurance to the public that the area will be monitored and reviewed. Should the Council find after the 3–year review on size and configuration that the boundaries of the area are not appropriate, they can be changed at that time. In addition, the 10–year re-evaluation period will assure the public that the area will not be closed and forgotten.

Additional background and rationale for the measures discussed above are contained in Amendment 13A.

Proposed Rule

A proposed rule that would implement the measures in Amendment 13A has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

Comments received by the end of the comment period of the notice of availability of the FMP, whether specifically directed to the FMP or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 13A. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 13A or the proposed rule during their respective comment periods will be addressed in the preamble of the final rule.

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

Dated: October 29, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–27686 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031016262–3262–01; I.D. 100603E]

RIN 0648–AR08

Fisheries of the Exclusive Economic Zone off Alaska; Recordkeeping and Reporting

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

ACTION: Proposed rule.

SUMMARY: This action revises the descriptions of Gulf of Alaska (GOA) statistical and reporting areas 620 and 630 in Figure 3b to part 679 to include the entire Alitak/Deadman's/Portage Bay complex of Kodiak Island within area 620. This action is necessary to improve quota management and fishery enforcement in the GOA. This action is intended to meet the conservation and management requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and to further the goals and objectives of the GOA groundfish fishery management plan.

DATES: Comments must be received by December 4, 2003.

ADDRESSES: Comments should be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Durall, or delivered to the Federal Building, NMFS, 709 West 9th Street, Room 420, Juneau, AK 99801. Comments may be sent via facsimile to 907–586–7557. Comments will not be accepted if submitted by email or the Internet. Copies of the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared for this action may also be obtained from the same address, or by calling the Alaska Region, NMFS, at 907 586–7228.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008 or *patsy.bearden@noaa.gov*.

SUPPLEMENTARY INFORMATION: The U.S. groundfish fisheries of the GOA in the

exclusive economic zone (EEZ) are managed by NMFS under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act and is implemented by regulations at 50 CFR part 679. General regulations that also pertain to U.S. fsheries appear at subpart H of 50 CFR part 600.

Background and Need for Action

The boundary between GOA statistical and reporting areas 620 and 630 near Kodiak Island, Alaska, is 154°W. longitude from the south side of the Alaska Peninsula, southward to the limits of the EEZ off Alaska. On Kodiak Island, this line of longitude bisects Alitak/Deadman's/Portage Bay complex, a large, deep bay on the south end of the island. Frequently, substantial pollock fishing takes place in this bay.

This division of the bay into two separate reporting areas is impractical for quota management and enforcement purposes. When either of the two areas is open to pollock fishing, and the other area is closed, vessels will fish in the bay on the ''open'' side of the line. The area of the Alitak/Deadman's/Portage Bay complex of Kodiak Island would be much more efficiently enforced if the bay were either all open or all closed.

In addition, because the mouth of the bay is totally contained in area 620, the waters within the bay logically should be included in area 620.

This action revises the description of statistical and reporting areas 620 and 630 in Figure 3b by including all waters of the Alitak/Deadman's/Portage Bay complex of Kodiak Island within area 620 and excluding all such waters from area 630.

Classification

At this time, NMFS has not determined whether the amendment that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This proposed rule does not duplicate, overlap, or conflict with other Federal regulations.

NMFS prepared an IRFA that describes the impact this action may have on small entities. The need, justification, and economic impacts for the actions in this proposed rule, as well as impacts of the alternatives considered, were analyzed in the RIR/IRFA prepared for this action (see **ADDRESSES**). A summary appears below.

The RIR/IRFA evaluates a regulatory amendment to consolidate all waters in the Alitak/Deadman's/Portage Bay complex on southwestern Kodiak Island within Federal groundfish statistical and reporting area 620.

The current division of the bay complex between areas 620 and 630 means that different parts of the bay open and close on different schedules. Openings and closures in the lower part of the bay complex are driven by Area 620 openings and closures, while openings and closures in the upper part, including Deadman's and Portage Bays, are driven by openings and closures in Area 630. The part of the bay in Area 620 has tended to be open more days per year in recent years.

Deadman's Bay has deep water that is suitable for pollock mid-water trawling. The waters are relatively protected, and suitable for small vessels. The deep water in Area 620 is relatively constricted and dotted with pinnacles, making these waters less suitable for pollock fishing. This action would place the pollock grounds in Deadman's Bay under the Area 620 openings and closing schedule, and should give fishermen more days of access to them in a typical year.

A Regulatory Impact Review was prepared to address the requirements of E.O. 12866 which requires an evaluation of the costs and benefits, and of the significance, of regulatory actions.

The proposed regulatory amendment will reduce fishing costs. Fishermen will have increased opportunities to fish in Deadman's Bay in most years. The increase in the number of fishing days available in Deadman's Bay will not be offset by reductions in fishing days anywhere else. Additional fishing days will increase the choices available to fishermen. This should not increase their costs, since they would not take advantage of the new opportunities if it did so. They will take advantage of the opportunities if these decrease their costs.

The amendment will have minor benefits for fisheries management. All of this area is currently surveyed as part of Area 620. Thus, it will be biologically appropriate to add Deadman's and Portage Bays to Area 620. Moreover, this action will simplify the boundary between Areas 620 and 630 and make enforcement somewhat easier.

Since there are positive benefits, and no identifiable costs, this regulatory amendment is expected to have positive net benefits. This action is not expected to be significant under the criteria specified in E.O. 12866.

An IRFA was prepared to address the requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Fairness Act of 1996 (50 CFR 603). The RFA requires an evaluation of the impact of certain Federal actions on small businesses, government jurisdictions, and non-profit organizations.

The directly regulated entities in this action are groundfish catcher vessels targeting pollock with pelagic trawls in Alitak and Deadman's Bays. The number of vessels active in this fishery over the period from 1999 through 2002 ranged between 0 in 2000, and 30 in 1999. All of these are believed to have been small entities under the Small Business Administration (SBA) criteria NMFS uses to make these determinations for regulatory flexibility analyses. Average GOA trawl catcher vessel groundfish revenues were about $350,000 in 2001. Average ex-vessel revenues from targeted pollock trawling activity in the Alitak/Deadman's/Portage Bay complex were about $15,000 in 1998, about $18,000 in 1999, nothing in 2000, and about $15,000 in 2001.

The analysis did not reveal any adverse economic impacts on the directly regulated small pelagic trawling operations. This analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

This analysis did not identify any alternatives to the preferred action that accomplished the objectives of the Magnuson-Stevens Act and that were better for small entities. Two alternatives were identified: (1) the status quo and (2) the reassignment of waters in the upper bay complex from Area 630 to Area 620. The status quo alternative did not make any changes that would increase the flexibility or reduce the fishing costs of the small fishing operations active in the area, while alternative 2, by increasing fishing time in Deadman's Bay in most years, did so. The status quo alternative neither meets the objectives of the proposed action nor increases the fishing opportunities available to fishermen. Alternative 2, the preferred alternative, does both.

This action does not impose new reporting, recordkeeping or other compliance requirements on regulated small entities.

This action does not have any adverse impacts on regulated small entities.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 28, 2003.

Rebecca Lent,

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

For reasons set out in the preamble, 50 CFR part 679 is proposed to be amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106–554.

Figure 3b to Part 679—[Amended]

2. Figure 3b to Part 679 is revised as follows:

FIGURE 3 TO PART 679. GULF OF ALASKA STATISTICAL AND REPORTING AREAS (UPDATED OCTOBER 2003) B. COORDINATES

Code	Description
610	*Western GOA Regulatory Area, Shumagin District.* Along the south side of the Aleutian Islands, including those waters south of Nichols Point (54°51′ 30'' N lat) near False Pass, and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed: 52°49.18′ N, 169°40.47′ W; 52°49.24′ N, 169°07.10′ W; 53°23.13′ N, 167°50.50′ W; 53°18.95′ N, 167°51.06′ W; 53°58.97′ N, 166°16.50′ W; 54°02.69′ N, 166°02.93′ W; 54°07.69′ N, 165°39.74′ W; 54°08.40′ N, 165°38.29′ W; 54°11.71′ N, 165°23.09′ W; 54°23.74′ N, 164°44.73′ W; and southward to the limits of the US EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), between 170°00′ W long and 159°00′ W long.
620	*Central GOA Regulatory Area, Chirikof District.* Along the south side of the Alaska Peninsula, between 159°00′ W long and 154°00′ W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass) except that all waters of the Alitak/Deadman′s/Portage Bay complex of Kodiak Island are included in this area.

FIGURE 3 TO PART 679. GULF OF ALASKA STATISTICAL AND REPORTING AREAS (UPDATED OCTOBER 2003) B. COORDINATES—Continued

Code	Description
630	*Central GOA Regulatory Area, Kodiak District.* Along the south side of continental Alaska, between 154°00′ W long and 147°00′ W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), excluding all waters of the Alitak/Deadman′s/Portage Bay complex of Kodiak Island and Area 649.
640	*Eastern GOA Regulatory Area West Yakutat District.* Along the south side of continental Alaska, between 147°00′ W long and 140°00′ W long, and southward to the limits of the US EEZ, as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.
649	*Prince William Sound.* Includes those waters of the State of Alaska inside the base line as specified in Alaska State regulations at 5 AAC 28.200.
650	*Eastern GOA Regulatory Area, Southeast Outside District.* East of 140°00′ W long and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 659.
659	*Eastern GOA Regulatory Area, Southeast Inside District.* As specified in Alaska State regulations at 5 AAC 28.105 (a)(1) and (2).
660	*GOA outside the U.S. EEZ* as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).

Note: A statistical area is the part of a reporting area contained in the EEZ.

[FR Doc. 03–27605 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 213

Tuesday, November 4, 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 COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

AGENCY: Bureau of Industry and Security (BIS).

Title: Import Certificates, End-User Certificates, and Delivery Verification Procedures.

Agency Form Number: None.

OMB Approval Number: New.

Type of Request: New collection.

Burden: 1,968 hours.

Average Time Per Response: 15 to 30 minutes per response.

Number of Respondents: 6,420 respondents.

Needs and Uses: Import or End-User Certificates are an undertaking by the government of the country of ultimate destination (the issuing government) to exercise legal control over the disposition of the items covered by the importer (ultimate consignee or purchaser) and transmitted to the exporter (applicant). The control exercised by the government issuing the Import or End-User Certificate is in addition to the conditions and restrictions placed on the transaction by BIS. This collection of information also contains recordkeeping and reporting requirements that involve Import or End-user Certificates as supporting documentation accompanying an application for an export license (approved by OMB under control no. 0694–0088). Another reporting requirement allows exporters to request an exception to the imports certificate (or its equivalent) procedure. This reporting requirement also covers requests for exceptions to the delivery verification procedure.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, DOC Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: October 30, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–27664 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Collection; Comment Request; Short Supply Regulations, Petroleum (Crude Oil)

ACTION: Proposed collection: comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 5, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, DOC Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Marna Dove, BIS ICB Liaison, (202) 482–5211, Department of Commerce, Room 6622, 14th & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION

I. Abstract

The information is collected as supporting documentation for license applications to export petroleum (crude oil) and used by licensing officers to determine the exporter's compliance with the 5 statutes governing this collection.

II. Method of Collection

III. Data

OMB Number: 0694–0027.

Form Number: BXA–748P.

Type of Review: Regular submission for renewal of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 15.

Estimated Time Per Response: 4–12 hours per response.

Estimated Total Annual Burden Hours: 104.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: October 30, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–27663 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Collection; Comment Request; Request for Special Priorities Assistance

ACTION: Proposed collection: Comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 4, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Office of the Chief Information Officer, 202–482–0266, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Marna Dove, BIS ICB Liaison, Department of Commerce, BIS Office of the Chief Information Officer, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collected on BIS–999, from defense contractors and suppliers, is required for the enforcement and administration of the Defense Production Act and the Selective Service Act to provide Special Priorities Assistance under the Defense Priorities and Allocation System (DPAS) regulation.

II. Method of Collection

Written or electronic submission.

III. Data

OMB Number: 0694–0057.

Form Number: BIS–999.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 1,200.

Estimated Time Per Response: 30 minutes per response.

Estimated Total Annual Burden Hours: 600.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: October 30, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–27665 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–827]

Certain Cased Pencils from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review

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

ACTION: Notice of Rescission of the Antidumping Duty New Shipper Review of Certain Cased Pencils from the People's Republic of China.

SUMMARY: On February 4, 2003, the Department of Commerce (the Department) published in the **Federal Register** a notice of the initiation of a new shipper review of the antidumping duty order on certain cased pencils from the People's Republic of China (PRC) covering the exporter/producer Beijing Dixon Ticonderoga Stationery Company, Ltd. (Beijing Dixon) and the period December 1, 2001, through November 30, 2002. *See Certain Cased Pencils From the People's Republic of China: Initiation of Antidumping New Shipper Review*, 68 FR 5619 (*New Shipper Initiation*). For the reasons discussed below, we are rescinding the new shipper review of Beijing Dixon.

EFFECTIVE DATE: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Howard Smith at (202) 482 - 4162 or (202) 482 - 5193, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 2002, the Department received a request for a new shipper review of the antidumping duty order on certain cased pencils from the PRC from Beijing Dixon, an exporter and producer of subject merchandise. Beijing Dixon's request appeared to include the relevant documentation and certifications required by section 351.214(b) of the Department's regulations. Pursuant to section 351.214(b)(2)(i) of the Department's regulations, Beijing Dixon certified that it did not export subject merchandise to the United States during the period of investigation (POI). Pursuant to sections 351.214(b)(2)(iii)(A) and (B) of the Department's regulations, Beijing Dixon also certified that it has never been affiliated with any producer or exporter who exported the subject merchandise to the United States during the POI, and that its export activities are not controlled by the PRC central government. Further, pursuant to section 351.214(b)(2)(iv) of the Department's regulations, Beijing Dixon provided documentation purporting to establish the date of its first U.S. entry of the subject merchandise, the volume of that and subsequent shipments, and the date of the first sale to an unaffiliated customer in the United States.

On January 28, 2003, the Department initiated a new shipper review of Beijing Dixon covering the period December 1, 2001 through November 30, 2002. *See New Shipper Initiation*. The Department issued an antidumping questionnaire to Beijing Dixon on

January 30, 2003. In addition, the Department issued supplemental questionnaires to Beijing Dixon on March 21, April 3, and June 24, 2003.

Beijing Dixon provided responses to the Department's original and supplemental questionnaires on February 21, March 10, March 24, April 2, April 14, and July 15, 2003. Beijing Dixon continued to support its claim with respect to the date of its first U.S. entry of the subject merchandise. However, data placed on the record of this review indicated that Beijing Dixon may have had an additional entry of subject merchandise during the period of review (POR). *See* Memorandum from Thomas F. Futtner, Acting Director, AD/CVD Enforcement Group II, Office 4, to Holly A. Kuga, Acting Deputy Assistant Secretary, for Import Administration, entitled ''Rescission of New Shipper Review for Beijing Dixon Ticonderoga Stationery Company, Ltd.: Certain Cased Pencils from the People's Republic of China,'' dated August 13, 2003 (Intent to Rescind Memorandum). On July 15, 2003, the Department extended the time limit for completion of the preliminary results of this antidumping duty new shipper review until no later than November 24, 2003. *See Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Preliminary Results of New Shipper Review*, 68 FR 43084 (July 21, 2003). On July 17, 2003, the Department issued a supplemental questionnaire to Beijing Dixon to determine whether Beijing Dixon had any additional entries of subject merchandise during the POR. On July 23, 2003, in its response to the Department's July 17 supplemental questionnaire, Beijing Dixon acknowledged the existence of the unreported entry of subject merchandise.

In a memorandum, dated August 13, 2003, we notified parties of our intention to rescind the new shipper review of Beijing Dixon because information on the record of this review demonstrates that Beijing Dixon did not comply with the requirements for requesting new shipper reviews that are set forth in section 351.214(b)(2) of the Department's regulations. *See* Intent to Rescind Memorandum. On August 25, 2003, both Beijing Dixon and certain petitioners in the proceeding[1] submitted comments in response to the Department's Intent to Rescind Memorandum. In its comments, Beijing Dixon objected to the Department's intention to rescind the new shipper review, whereas, the petitioners, in their comments, supported the rescission of this review.

[1] The petitioners in this proceeding are the Writing Instrument Manufacturers Association (formerly the Pencil Makers Association) and its members, including Dixon Ticonderoga Company. However, the interested parties participating in this review as the petitioners are Sanford Corporation, Musgrave Pencil Company, Moon Products, Inc., and General Pencil, Inc.

Rescission of Review

We have considered the information on the record of this review, including the comments of Beijing Dixon and the petitioners, and have reached a final determination to rescind this new shipper review because Beijing Dixon did not comply with the requirements for requesting new shipper reviews set forth in section 351.214(b)(2) of the Department's regulations. Specifically, Beijing Dixon did not provide documentation establishing the date of its first entry of subject merchandise during the POR, did not provide the certification from the producer of the pencils included in the unreported shipment that the producer did not export subject merchandise to the United States during the POI, and did not provide documentation establishing the date of the first sale to an unaffiliated customer in the United States. *See* sections 351.214(b)(2)(ii) and (iv) of the Department's regulations. Therefore, we find it appropriate to rescind the new shipper review of Beijing Dixon. For further details, see memorandum from Holly A. Kuga, Acting Deputy Assistant Secretary, for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, entitled ''Final Rescission of the New Shipper Review of Certain Cased Pencils from the People's Republic of China for Beijing Dixon Ticonderoga Stationery Company, Ltd.,'' dated concurrently with this notice (Final Rescission Memorandum), which discusses the comments received from Beijing Dixon and the petitioners.

Cash Deposit Requirements

The Department will notify the U.S. Customs and Border Protection (CBP) that bonding is no longer permitted to fulfill security requirements for shipments of certain cased pencils from the PRC produced and exported by Beijing Dixon and entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this rescission notice in the **Federal Register**. The Department will further notify the CBP that a cash deposit of 114.90 percent ad valorem should be collected for such entries.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305 (a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended.

Dated: October 27, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–27689 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A 570–827]

Notice of Final Results of Antidumping Duty Changed Circumstances Review, and Determination to Revoke Order in Part: Certain Cased Pencils from the People's Republic of China

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

ACTION: Notice of final results of antidumping duty changed circumstances review and determination to revoke order in part.

SUMMARY: On September 22, 2003, the Department of Commerce (the Department) published a notice of initiation and preliminary results of an antidumping duty (AD) changed circumstances review with the intent to revoke, in part, the antidumping duty order on certain cased pencils (pencils) from the People's Republic of China (PRC). *See Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review and Intent to Revoke Order in Part: Certain Cased Pencils from the People's Republic of China*, 68 FR 55029 (September 22, 2003) (*Initiation and Preliminary Results*). We are now revoking this order, in part, with respect to pencils meeting the specifications described below, based on the fact that domestic parties have expressed no

interest in the continuation of the order with respect to these particular pencils. *See* ''Final Results of Review; Partial Revocation of Antidumping Duty Order'' below. The Department will instruct the U.S. Customs and Border Protection (CBP) to liquidate, without regard to antidumping duties, all unliquidated entries of pencils meeting the specifications described below. Further, the Department will instruct CBP to refund with interest any estimated antidumping duties collected with respect to unliquidated entries of pencils meeting the specifications described below entered, or withdrawn from warehouse, for consumption on or after December 1, 2001. In addition, the Department will order the suspension of liquidation ended for the merchandise covered by this partial revocation, effective on the date of publication of this notice.

EFFECTIVE DATE: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge or Howard Smith, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3518 and 482–5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 2003, Accoutrements, a U.S. importer, filed a request with the Department to revoke the AD order on pencils from the PRC with respect to a large novelty pencil. *See* Accoutrements' letter to the Secretary, dated July 25, 2003 (*Accoutrements Request Letter*). Specifically, Accoutrements requested that the Department revoke the AD order with respect to imports meeting the following description: novelty jumbo pencil that is octagonal in shape, approximately fourteen inches long, one-and-one quarter inches in diameter, and three-and-three quarter inches in circumference, composed of turned wood imprinted with the word, ACCOUTREMENTS, and the number 2, on one side, encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end. *See Accoutrements Request Letter* at 1.

On August 11, 2003, the petitioner submitted a letter to the Department stating that it ''would not support inclusion in the referenced antidumping duty order of a jumbo novelty pencil (approximately 1 foot long and 1 inch in diameter) that a company called Accoutrements is considering importing.'' On September 8, 2003, the petitioner submitted a letter to the Department clarifying its August 11, 2003 submission. In its September 8, 2003, letter, the petitioner submitted the following proposed scope language with respect to the above-mentioned jumbo novelty pencil: ''Also excluded from the scope of the order are pencils with all of the following physical characteristics: 1) length: 14 or more inches; 2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and 3) core length: not more than 15 percent of the length of the pencil.''

In response to the Department's invitation to comment on the preliminary results, on October 6, 2003, Accoutrements submitted a letter to the Department in which it requested that the Department change the proposed scope language from 14 or more inches to 13.5 or more inches, ''in order to cover possible manufacturing variances from production run to production run.'' On October 15, 2003, the petitioner submitted a letter to the Department in which it stated that it did not object to Accoutrement's requested change in the scope language.

New Scope Based on this Changed Circumstances Review

Imports covered by this order are shipments of certain cased pencils of any shape or dimension (except as noted below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are classified under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: 1) length: 13.5 or more inches; 2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and 3) core length: not more than 15 percent of the length of the pencil.

Although the HTSUS subheading is provided for convenience and customs purposes our written description of the scope of the order is dispositive.

Partial Revocation of Antidumping Duty Order

The petitioner has expressed no interest in continuing the AD order on pencils from the PRC with respect to pencils with all the following physical characteristics: 1) length: 13.5 or more inches; 2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and 3) core length: not more than 15 percent of the length of the pencil. The affirmative statement of no interest by the petitioner concerning pencils meeting the above specifications constitutes changed circumstances sufficient to warrant partial revocation of this order. Therefore, the Department is partially revoking the order on pencils from the PRC with regard to the pencils meeting the specifications described above, in accordance with sections 751(b), 751(d)(1), and 782(h)(2) of the Tariff Act of 1930, as amended (the Act), and 19 C.F.R. §351.222(g)(1). The Department has modified the scope of the AD order on pencils from the PRC to exclude the pencils described above.

In accordance with 19 C.F.R. §351.222(g)(4), the Department will order the suspension of liquidation ended for pencils meeting the specifications described above, effective on the date of publication of this notice. The Department will further instruct CBP to refund with interest any estimated antidumping duties collected with respect to unliquidated entries of pencils meeting the specifications described above entered, or withdrawn from warehouse, for consumption on or after December 1, 2001 (*i.e.*, any entries after the last day of the period covering the last completed administrative review), in accordance with section 778 of the Act. In addition, the Department will instruct CBP to liquidate, without regard to antidumping duties, all unliquidated entries of pencils meeting the specifications described above entered, or withdrawn from warehouse, for consumption on or after December 1, 2001.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. §351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

and terms of an APO is a sanctionable violation.

This changed circumstances review, partial revocation of the antidumping duty order and notice are in accordance with sections 751(b), 751(d)(1), and 782(h)(2) of the Act and 19 C.F.R. §351.216(e) and §351.222(g).

Dated: October 27, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–27690 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–836]

Glycine from the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Scot Fullerton, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone: (202) 482–2312 or (202) 482–1386, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 351.214(b)(2) of the Department's regulations, on March 26, 2003, the Department received a timely and properly filed request from Hebei New Donghua Amino Acid Co., Ltd. (New Donghua), for a new shipper review of its exports of glycine to the United States. On April 30, 2003, the Department initiated a new shipper review of the antidumping duty order on glycine from the People's Republic of China for the period of review of March 1, 2002 through February 28, 2003 (68 FR 23962, May 6, 2003).

Extension of Time Limit for Preliminary Results

Section 351.214(i)(1) of the Department's regulations requires the Department to issue preliminary results of a new shipper review within 180 days of the date of initiation. However, if the Secretary concludes that a new shipper review is extraordinarily complicated, the Secretary may extend the 180-day period to 300 days under section 351.214(i)(2) of the Department's regulations. Because of the complex nature of New Donghua's ownership structure and the resultant need to gather additional information and conduct further analysis into this area, we find this review to be extraordinarily complicated.

Accordingly, the Department is extending the time limit for the completion of the preliminary results to 300 days after the date of initiation, in accordance with section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and section 351.214(I)(2) of the Department's regulations. Therefore, the due date for the preliminary results is now no later than February 24, 2004. The final results will in turn be due 90 days after the date of issuance of the preliminary results, unless extended.

This notice is issued and published pursuant to sections 751(a)(1) and 777 (I) (1) of the Act.

Dated: October 17, 2003.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–27696 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533–820]

Certain Hot-Rolled Carbon Steel Flat Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Timothy Finn or Kevin Williams, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0065 or (202) 482–2371, respectively.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On January 22, 2003, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products from India, covering the period May 3, 2001 through November 30, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 3009. On August 27, 2003 the Department published a notice of an extension of the time limit for the preliminary results of the review until November 3, 2003. *See Certain Hot-Rolled Carbon Steel Flat Products from India; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 51557.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review by the current due date of November 3, 2003. Therefore, the Department is further extending the time limit for completion of the preliminary results by 42 days until no later than December 15, 2003. See Decision Memorandum from Thomas F. Futtner to Holly A. Kuga, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the Department's main building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: October 27, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 03–27697 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122–838]

Certain Softwood Lumber Products from Canada: Notice of Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain softwood lumber products from Canada for the period May 22, 2002, through April 30, 2003. We are now rescinding this review with respect to eight companies for which the requests for an administrative review have been withdrawn.

EFFECTIVE DATE: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Amber Musser or Constance Handley,at (202) 482–1777 or (202) 482–0631, respectively; AD/CVD Enforcement, Office 5, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2003, the Department published a notice of opportunity to request the first administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 23281

(May 1, 2003). On May 30, 2003, in accordance with 19 CFR 351.213(b), the Coalition for Fair Lumber Imports Executive Committee (the petitioner) requested a review of 192 producers/exporters of certain softwood lumber products. Also, between the dates of May 7, 2003, and June 2, 2003, 338 Canadian producers requested a review on their own behalf or had a review of their company requested by a U.S. importer. Taking into consideration the overlap in the three aforementioned categories, the total number of companies for which reviews were requested was 422.

On July 1, 2003, the Department published a notice of initiation of this antidumping duty administrative review, covering the period May 22, 2002, through April 30, 2003. *See Initiation of Antidumping Administrative Review*, 68 FR 39059 (July 1, 2003). The initiation, and subsequent correction, covered 422 companies.[1] On September 11, 2003, the Department published a notice of rescission for 48 companies for which review requests had been withdrawn on July 18 and August 4, 2003. *See Certain Softwood Lumber Products from Canada: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 68 FR 53546 (September 11, 2003) (*First Rescission Notice*). Based on this rescission of the 48 companies, the total number of companies under review was reduced to 374.

On September 29, 2003, nine lumber companies withdrew their requests for their own reviews. However, the petitioner had also requested the review of one of these nine companies, Préparabois Inc. The petitioner has not withdrawn its request for the review of Préparabois Inc. Accordingly, the Department has not rescinded the review with respect to this company.

Partial Rescission of Antidumping Duty Administrative Review

The additional 8 companies, for whom the review will be rescinded, are as follows:

Ainsworth Lumber Co. Ltd.

Bathurst Lumber

Blackville Lumber

Bois de l'Est F.B. Inc.

Boscus Canada Inc.

Groupe de Scieries G.D.S. Inc.

Produits Forestiers Lamco Inc.

Taylor Lumber Company Ltd.

Pursuant to 19 CFR 315.213(d)(1), we are rescinding the administrative review with respect to each of the above listed companies. The Department will issue appropriate assessment instructions to U.S. Customs and Border Protection within 15 days of publication of this notice.

This notice is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 28, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–27688 Filed 11–3–03; 8:45 am]

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[1] Buchanan Lumber, a distinct entity from Buchanan Lumber Sales Inc., was inadvertently omitted from the original initiation notice. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews*, 68 FR 44524 (July 29, 2003).

DEPARTMENT OF COMMERCE

International Trade Administration

Colorado State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–046. *Applicant:* Colorado State University, Fort Collins, CO 80523. *Instrument:* Piezoelectric Scanning Stage, Model NIS–30. *Manufacturer:* Nanonics Imaging Ltd, Israel. *Intended Use:* See notice at 68 FR 56622, October 1, 2003.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant.

The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted to the previously imported instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–27691 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Chicago; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5 PM in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW, Washington, DC.

Docket Number: 03–043. *Applicant:* University of Chicago, Chicago, IL 60637–1470. *Instrument:* Microscope Accessories. *Manufacturer:* Luigs & Neumann GmbH, Germany. *Intended*

Use: See notice at 68 FR 53547, September 11, 2003.

Comments: None received. *Decision:* Approved. No instruments of equivalent scientific value to the foreign instruments, for such purposes as they are intended to be used, are being manufactured in the United States. *Reasons:* These are compatible accessories for an existing instrument purchased for the use of the applicant.

The accessories are pertinent to the intended uses and we know of no domestic accessories which can be readily adapted to the previously imported instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–27693 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The University of Michigan; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–024R. *Applicant:* The University of Michigan, Ann Arbor, MI 48109–2136. *Instrument:* Materials Preparation and Crystal Growth System, Model MCGS5. *Manufacturer:* Crystalox Limited, United Kingdom. *Intended Use:* See notice at 68 FR 36769, June 19, 2003.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) Induction cold crucible melting capable of complete levitation of the charge (for purity), (2) Czochralski growth for production of single crystals and (3) small crucible volume (21 ccm^2) allowing research-scale experiments with precious metals (*e.g.,* platinum). The National Institute of Standards and Technology advises in its memorandum of October 22, 2003 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–27694 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Michigan; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–041. *Applicant:* University of Michigan, Ann Arbor, MI 48109. *Instrument:* 2 (each) CdZnTe Conplanar Grad Radiation Detectors. *Manufacturer:* Baltic Scientific Instruments, Latvia. *Intended Use:* See notice at 68 FR 53547, September 11, 2003.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides optimal fabrication of a CdZnTe crystal gamma-ray detector using very specialized crystals and signal processing techniques for high energy resolution for use in space exploration. A university physics department advised October 27, 2003 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–27692 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Comments on Modification of Worsted Wool Fabric Tariff Rate Quotas

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of solicitation of comments on a request for modification of tariff rate quota limitations on the import of certain worsted wool fabrics.

DATES: To be considered, comments must be received or postmarked by 5:00 p.m., November 24, 2003.

ADDRESS: Comments must be submitted to: Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries, Room 3001, United States Department of Commerce. Washington, D.C. 20230. Six copies of comments should be submitted.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION: The Department of Commerce (Department) hereby solicits comments on a request for an increase in the limitations on the quantity of imports of certain worsted wool fabric under the 2004 tariff rate quotas established by the Trade and Development Act of 2000 (TDA 2000), and amended by the Trade Act of 2002. To be considered, comments must be received or postmarked by 5:00 p.m. November 24, 2003 and must comply with the requirements of 15 CFR 340 (66 FR 6459, published January 22, 2001). Thirty days after the end of the comment period, the Department will determine whether the limitations should be modified.

Background

Title V of the TDA 2000 created two tariff rate quotas (TRQs), providing for temporary reductions for three years in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the

United States (HTS) heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12).

On August 6, 2002, President Bush signed into law the Trade Act of 2002, which includes several amendments to Title V of the TDA 2000. These include the extension of the program through 2005; the reduction of the in-quota duty rate on HTS 9902.51.12 (average fiber diameter 18.5 microns or less) from 6 percent to zero, effective for goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002; and an increase in the 2003 through 2005 TRQ levels to 3,500,000 square meters for HTS 9902.51.12 and to 4,500,000 square meters for HTS 9902.51.11. Both of these limitations may be modified by the President, not to exceed 1,000,000 square meters per year for each tariff rate quota.

The TDA 2000 requires the annual consideration of requests by U.S. manufacturers of men's or boys' worsted wool suits, suit-type jackets and trousers for modification of the limitation on the quantity of fabric that may be imported under the tariff rate quotas, and grants the President the authority to proclaim modifications to the limitations. In determining whether to modify the limitations, specified U.S. market conditions with respect to worsted wool fabric and worsted wool apparel must be considered. On January 22, 2001, the Department published regulations establishing procedures for considering requests for modification of the limitations. 15 CFR 340.

On September 26, 2003, the Department published a notice in the Federal Register soliciting requests for modification of the 2004 tariff rate quota limitations. The Department received one such request, from Hartmarx Corporation. The request is for the maximum increase (1,000,000 square meters) in each of the two tariff rate quota limitations (HTS 9902.51.11 and HTS 9902.51.12). The request is reproduced below.

Comments may be submitted by any interested person, including U.S. manufacturers of worsted wool fabric, wool yarn, wool top and wool fiber. Comments must comply with the requirements of 15 CFR 340. If the person submitting comments is a domestic producer of worsted wool fabric, comments should include, to the extent available, the following information for each limitation with respect to which comments are being made: (1) A list of domestic manufacturers of worsted wool suits, suit-type jackets, or trousers for whom orders were filled during the period July 1, 2002 to June 30, 2003, the date of such orders, the total quantity ordered and supplied in square meters of domestically produced worsted wool fabric and of imported worsted wool fabric, and the average price received per square meter of domestically produced worsted wool fabric and of imported worsted wool fabric for such orders; 2) A list of all requests to purchase worsted wool fabric during the period July 1, 2002 to June 30, 2003 that were rejected by the person submitting the comments, indicating the dates of the requests, the quantity requested, the price quoted, and the reasons why the request was rejected; 3) Data indicating the increase or decrease in production and sales for the period January 1, 2003 to June 30, 2003 and the comparable six month period in the previous year of domestically-produced worsted wool fabrics used in the production of worsted wool suits, suit-type jackets and trousers; 4) Evidence of lost sales due to the temporary duty reductions on certain worsted wool fabric under the tariff rate quotas; and 5) Other evidence of the ability of domestic producers of worsted wool fabric to meet the needs of the manufacturers of worsted wool suits, suit-type jackets and trousers in terms of quantity, variety, and other relevant factors.

Comments must be accompanied by a statement by the person submitting the request (if a natural person), or an employee, officer or agent of the legal entity submitting the request, with personal knowledge of the matters set forth therein, certifying that the information is complete and accurate, signed and sworn before a Notary Public, and acknowledging that false representations to a federal agency may result in criminal penalties under federal law. Any business confidential information provided that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law. To the extent business confidential information is provided, a non-confidential submission should also be provided, in which business confidential information is summarized or, if necessary, deleted.

Dated: October 29, 2003.

D. Michael Hutchinson,

Acting Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries

October 14, 2003

Industry Assessment Division
Office of Textiles and Apparel
Room 3100
United States Department of Commerce
Washington, DC 20230

RE: Request for Modification of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

To Whom It May Concern: As President and Chief Executive Officer of Hartmarx Corporation and on behalf of Hartmarx Corporation and its wholly-owned subsidiaries (''the Companies''), manufacturers of men's and boys' worsted wool suits, suit-type jackets and trousers [1], I am submitting this request in response to the Department of Commerce's ''Notice of Solicitation of Requests for Modification of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics''. This modification request is consistent with the procedures established for considering requests for modifications of the tariff rate quotas under Title V or the Trade and Development Act of 2000 (the Act) and the regulations published by the Department.

Hartmarx Corporation has its principal executive and administrative offices in Chicago, Illinois. The Companies have manufacturing facilities in Alabama, New York, Missouri, Illinois, Pennsylvania and Arkansas. The Company was established in 1872, and we believe we are the largest manufacturer and marketer of men's suits, sport coats, and slacks in the United States. Substantially all of the company's products are sold to a wide variety of retail channels under established brand names or the private labels of major retailers. For example, the Company owns the Hart Schaffner & Marx and Hickey-Freeman labels and also offers its products under a variety of brand names it owns or under exclusive licensing agreements.

As domestic manufacturers of men's and boys' worsted wool suits, suit-type jackets and trousers, the Companies are eligible to request a modification of the limitation on the quantity of imported worsted wool fabrics under headings 9902.51.11 and 9902.51.12 of the harmonized Tariff Schedule of the United States (HTS). This request seeks an increase in the limitations for imports entering on or after January 1, 2004 of 1 million square meters for HTS heading 9902.51.11 and an in crease of 1 million square meters for HTS heading 9902.51.12 [2].

For the twelve months July 1, 2002 to June 30, 2003, our companies imported a substantial quantity of worsted wool fabric despite the difficult economic conditions in the men's tailored clothing business. As conditions in the men's tailored clothing business improve, the companies, along with other companies in the industry, would expect to import more worsted wool fabric to meet the anticipated demand from our customers. This is especially true given the quantity of fabric imports of other domestic manufacturers of men's and boys' worsted wool tailored clothing who are seeking allocations of the tariff rate quota. In addition, domestic fabric production has experienced significant and rapid declines in the last few years. The following information is summarized form the Hartmarx Form 10–

[1] As required by 15 CFR 340.3(b)(2).

[2] As required by 15 CFR 340.3(b)(3).

K filed with the U.S. Securities and Exchange Commission from 1993 to 2002 shows that during that period the Companies purchased a reduced amount of all our fabric needs (not just worsted wool) from Burlington Industries, and imported significantly more fabric.

Fiscal year ended November 30	Percent of fabric needs	
	Purchases from Burlington Industries	Imports
2002	8	65
2001	11	55
2000	20	40
1999	25	33
1998	33	30
1997	40	22
1996	43	19
1995	46	17
1994	51	20
1993	48	25

Purchases from Burlington Industries for the period July 1, 2002 to June 30, 2003 were not significant. Whereas in prior periods the companies purchased over one million square meters from Burlington.

Today, the Companies rely on mills in more than 15 countries to supply worsted wool fabric. Therefore, we know that unless the limitations are significantly increased, we will be unable to receive adequate TRQ allocations to satisfy our needs.

Hickey-Freeman only uses fabric described in HTS heading 9902.51.12. Because of the nature of the fabric used by Hickey-Freeman, Burlington has not been a significant worsted wool fabric supplier to Hickey-Freeman for many years. This situation stands in stark contrast to that of decades ago when Burlington was such a large fabric supplier that Hickey-Freeman purchased business interruption insurance to insure against financial losses should Burlington's mills be unable to fulfill Hickey-Freeman's fabric orders. Hickey-Freeman has been a significant customer of Loro Piana USA (Warren of Stafford), but has reduced its purchases over the last few years because that mill has been unable to satisfy our fabric needs at the same level as it had previously. In 2000, Loro Piana USA (Warren of Stafford) supplied approximately 30 percent of Hickey-Freeman's total fabric purchases. Today, Hickey-Freeman relies on mills in 6 countries to supply worsted wool fabric.

In the period January 1, 2003 to June 30, 2003 compared to January 1, 2002 to June 30, 2002, our business changed significantly in that we produced significantly more garments using worsted wool fabrics finer than 18.5 microns and fewer garments using worsted wool fabric greater than 18.5 microns.

We are attaching, as part of this modification request, business confidential production and other data required under the regulations and request that it be protected from disclosure. This data is separately attached and is labeled ''Business Confidential.''

This letter and the attached Business Confidential data provides the basis for our requested modification.

As an officer of the company submitting this request, I have personal knowledge of the matters set forth herein, and I certify that the information is complete and accurate. I acknowledge that false representations to a federal agency may result in criminal penalties under federal law.

Homi B. Patel,

President and Chief Executive Officer, Hartmarx Corporation.

[FR Doc. 03–27642 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DR–S/M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 031003246–3246–01]

National Voluntary Conformity Assessment System Evaluation (NVCASE) Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) announces the establishment of a sub-program under the National Voluntary Conformity Assessment System Evaluation (NVCASE) program to recognize accreditors of certification bodies involved in organic production and processing. The sub-program is being established pursuant to NVCASE procedures in response to a request from the International Organic Accreditation Service. Accreditation bodies recognized by NIST may then accredit certification bodies that are involved in organic production and processing.

The action being taken under this notice addresses both general and specific NVCASE requirements relating to organic production and processing. Sub-program requirements have been developed in accordance with NVCASE procedures and with public consultation. Public input was obtained at an open meeting on May 9, 2003.

DATES: Applications will be accepted beginning December 4, 2003.

ADDRESSES: Applications for recognition may be obtained from, and returned to, NVCASE Program Manager, NIST, 100 Bureau Drive, Mailstop 2150, Gaithersburg, MD 20899–2150, (Attention: Jogindar S. Dhillon), or by fax (301) 975–5414, or e-mail at *dhillon@nist.gov.*

FOR FURTHER INFORMATION CONTACT: Jogindar S. Dhillon, NIST, 100 Bureau Drive, Mailstop 2150, Gaithersburg, MD 20899–2150, fax: (301) 975–5414, e-mail: *dhillon@nist.gov.*

SUPPLEMENTARY INFORMATION: The NVCASE sub-program to recognize accreditation bodies that accredit certification bodies for organic production and processing is being established in accordance with NVCASE program procedures, 15 CFR 286.2(b)(3)(iii). The general and specific requirements were established pursuant to NVCASE procedures as cited in 15 CFR 286.5. Public consultation on these requirements was conducted at a workshop held on May 9, 2003. This workshop was announced in the **Federal Register** Vol. 68, No. 63/ Wednesday, April 2, 2003.

NIST will apply the general requirements contained in the International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 61—''General Requirements for Assessment and Accreditation of Certification/Registration Bodies'' or its latest revision to all applicant accreditation bodies. These general requirements will be supplemented by specific technical requirements outlined below and contained in the NVCASE handbook, available upon request from NIST.

Under this sub-program, NIST-recognized accreditors will accredit certification bodies for conformance to:

(i) The International Federation of Organic Agriculture Movements' (IFOAM) Accreditation Criteria and IFOAM Basic Standards for organic production and processing; and/or

(ii) ISO/IEC Guide 65—''General Requirements for bodies operating product certification systems''—and international standards, as requested by the applicant certification bodies, in the field of organic production and processing.

NVCASE recognition of an accreditor of ''Organic Production and Processing'' certification bodies does not convey recognition by any other organization.

NIST will accept applications from interested accreditation bodies for recognition to accredit certification bodies involved in organic production and processing until December 4, 2003. All accreditation bodies that have submitted a complete application and required fees to NIST within 30 days after the beginning of the acceptance of applications will be included in an initial group for evaluation. Applications received subsequently will be considered on an as-received basis for evaluation after the initial group of applicants has been considered. You may request a copy of the application

from the NVCASE Program Manager at the contact information noted above. Further information for the evaluation process can be obtained from the NVCASE Program Handbook, NISTIR 6440; 2002 ED, available at *http://ts.nist.gov/nvcase.* The fees are estimated upon submission of the application on an individual basis. NIST will announce the recognition of qualified accreditation bodies on the NVCASE web site at *http://ts.nist.gov/nvcase.*

This notice contains a collection of information requirement subject to the Paperwork Reduction Act. This collection of information has been approved by the Office of Management and Budget (OMB) under the following control Number: 0693–0019. Notwithstanding any other provision of law, no person is required to respond nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Dated: October 28, 2003.

Arden L. Bement, Jr.,

Director.

[FR Doc. 03–27606 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030509119–3269–03; I.D. 103003B]

Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Program; Pacific Coast Groundfish Fishery; California, Washington, and Oregon Fisheries for Coastal Dungeness Crab and Pink Shrimp

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

ACTION: Notice of fishing capacity reduction payment tender.

SUMMARY: NMFS issues this notice to inform the public about tendering reduction payments under the Pacific Coast groundfish fishing capacity reduction program. NMFS has accepted reduction bids. A successful referendum has approved the reduction loan repayment fees. NMFS is ready to tender reduction payments to accepted bidders.

ADDRESSES: Send questions about this notice to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, (301) 713–2390.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted the Pacific Coast groundfish fishing capacity reduction program (''program'') on February 20, 2003. The program's objective is reducing the fishery's harvesting capacity. This helps financially stabilize this limited-entry fishery.

NMFS implemented the program by **Federal Register** notification. It published the initial notification on May 28, 2003 (68 FR 31653) and the final notification on July 18, 2003 (68 FR 42613). Persons wanting further program details should refer to these notifications.

This is a voluntary program. Program participants permanently relinquish their fishing permits. Their vessels can never fish again. The Program also involves the California, Washington, and Oregon fisheries for Dungeness crab and pink shrimp. Bidders who have these permits relinquish them along with their groundfish trawl permits.

The program's maximum cost is $46 million. A 30-year loan finances $36 million. Future fish landing fees repay the loan. Each of the seven fisheries involved pays fees at different rates. Congress appropriated the remaining $10 million of the program's cost.

Groundfish permit holders bid for reduction payments. NMFS scores each bid amount against the bidder's past ex-vessel revenues. A reverse auction accepts bids whose amounts are the lowest percentages of revenues. This creates reduction contracts.

A referendum about the fees follows the bidding process. The reduction contracts become void unless the majority of votes cast in the referendum approve the fees. All seven fisheries vote in the referendum. A statutory formula assigns different weights to each fishery's votes.

II. Present Status

NMFS invited program bids on July 18, 2003. The bidding period opened on August 4, 2003, and closed on August 29, 2003. One hundred eight groundfish permit owners submitted bids. These totaled $59,786,471. NMFS accepted 92 bids. These totaled $45,752,471. The next lowest scoring bid would have exceeded the program's maximum cost. The accepted bids involved 92 fishing vessels as well as 240 fishing permits. Ninety two of the permits were groundfish trawl permits. One hundred twenty one were crab and shrimp permits. The remaining 27 were other Federal permits.

NMFS mailed ballots to referendum voters on September 30, 2003. The voting period opened on October 15, 2003. It closed on October 29, 2003. NMFS received 1,105 timely votes. After weighting, 85.85 percent of the votes approved the fees. The referendum was successful. The reduction contracts are in full force and effect.

III. Purpose

NMFS publishes this notification to inform the public before tendering reduction payments to the 92 accepted bidders. On December 4, 2003, accepted bidders must permanently stop all further fishing with the reduction vessels and permits. NMFS will revoke the relinquished Federal permits. NMFS will advise California, Oregon, and Washington about the relinquished state permits. NMFS will notify the National Vessel Documentation Center to revoke the reduction vessels' fisheries endorsement. NMFS will also notify the U.S. Maritime Administration to restrict these vessels' transfer to foreign ownership or registry.

This notification begins the 30-day period and puts the public (including vessel or permit creditors) on notice. See the adjacent table for accepted bidders, vessels, and permits.

IV. Accepted Bidders, Vessels, and Permits

Accepted bidder	Vessel		Permit	
	Name	Official No.	Fishery	Number
AMBITION, INC	EUROCLYDON	913987	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0636
AMBITION, INC	EUROCLYDON	913987	SHRIMP in CA	41581
AMBITION, INC	EUROCLYDON	913987	SHRIMP in OR	90107
AMBITION, INC	EUROCLYDON	913987	SHRIMP in WA	57343

Accepted bidder	Vessel		Permit	
	Name	Official No.	Fishery	Number
AMY LYNN FISHERIES, INC	AMY LYNN	616194	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0415
AMY LYNN FISHERIES, INC	AMY LYNN	616194	HIGH SEAS in HSF	616194
AMY LYNN FISHERIES, INC	AMY LYNN	616194	SHRIMP in WA	57505
AMY LYNN FISHERIES, INC	AMY LYNN	616194	CRAB in WA	58177
AMY LYNN FISHERIES, INC	AMY LYNN	616194	SHRIMP in OR	90100
ANDERSON, MICHAEL B	PACIFIC MAID	973740	ENDORSEMENT WITH TRAWL GEAR IN NWR.	GF0267
ANDERSON, MICHAEL B	PACIFIC MAID	973740	SHRIMP in CA	43150
ANDERSON, MICHAEL B	PACIFIC MAID	973740	CRAB in CA	43150
B & J FISHERIES, INC	CAPTAIN WES	508593	ENDORSEMENT WITH TRAWL GEAR IN NWR.	GF0047
B & J FISHERIES, INC	CAPTAIN WES	508593	SHRIMP in CA	32867
B & J FISHERIES, INC	CAPTAIN WES	508593	SHRIMP in OR	90027
BERGERSON, DARRYL	SARA FRANCES	245569	ENDORSEMENT WITH TRAWL GEAR IN NWR.	GF0368
BERGERSON, DARRYL	SARA FRANCES	245569	HIGH SEAS in HSF	245569
BERGERSON, DARRYL	SARA FRANCES	245569	SHRIMP in OR	90180
BISCHOP, DONALD D AND BISCHOP, CHARMAINE	MERLUCCIUS	551451	ENDORSEMENT WITH TRAWL GEAR IN NWR.	GF0117
BISCHOP, DONALD D AND BISCHOP, CHARMAINE	MERLUCCIUS	551451	SHRIMP in CA	22888
BLUE PACIFIC BLUE FISHERIES, INC	BLUE HORIZON	598179	ENDORSEMENT WITH TRAWL GEAR IN NWR.	GF0079
BLUE PACIFIC FISHERIES, INC	BLUE HORIZON	598179	HIGH SEAS in HSF	598179
BOSCHKE, CHARLES A AND BOSCHKE, NANCY LEE	CARLA R	541450	HIGH SEAS in HSF	541450
BOSCHKE, CHARLES A AND BOSCHKE, NANCY LEE	CARLA R	541450	ENDORSEMENT WITH TRAWL GEAR IN NWR.	GF0217
BOY, GREG N AND BOY, SUSAN A	SUSAN NICOLE	605313	ENDORSEMENT WITH TRAWL GEAR IN NWR.	GF0330
BOY, GREG N AND BOY, SUSAN A	SUSAN NICOLE	605313	SHRIMP in OR	90104
BRADLEY, STEVEN W AND BRADLEY, JOELLE M	PACIFIC CRIER	517902	ENDORSEMENT WITH TRAWL GEAR IN NWR.	GF0442
BRADLEY, STEVEN W AND BRADLEY, JOELLE M	PACIFIC CRIER	517902	HIGH SEAS in HSF	517902
BRADLEY, STEVEN W AND BRADLEY, JOELLE M	PACIFIC CRIER	517902	CRAB in CA	18224
BRADSHAW, CALVIN W	DAPHNE	245872	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0444
BRADSHAW, CALVIN W	DAPHNE	245872	CRAB in CA	5773
BREEN, ROBERT AND DOHERTY, JOHN	JONATHAN	587508	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0743
BREEN, ROBERT AND DOHERTY, JOHN	JONATHAN	587508	SHRIMP in CA	43101
BRISCOE JR, ROBERT AND BRISCOE, CAROL	STARLIGHT	900453	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0738
BRISCOE JR, ROBERT AND BRISCOE, CAROL	STARLIGHT	900453	HIGH SEAS in HSF	900453
BRISCOE JR, ROBERT AND BRISCOE, CAROL	STARLIGHT	900453	CRAB in WA	59966
BROOK HARBOR INC	PAM BAY	509492	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0311
BROOK HARBOR INC	PAM BAY	509492	SHRIMP in CA	19663
BROOK HARBOR INC	PAM BAY	509492	CRAB in CA	19663
BROOK HARBOR INC	PAM BAY	509492	SHRIMP in OR	90040
BROWN, CHARLES S	FRIENDSHIP	562427	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0061
BROWN, CHARLES S	FRIENDSHIP	562427	HIGH SEAS in HSF	562427
BROWN, CHARLES S	FRIENDSHIP	562427	SHRIMP in WA	57545
BROWN, RALPH H AND STAGG, LINDA K	ALOMA	623611	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0193
BROWN, RALPH H AND STAGG, LINDA K	ALOMA	623611	SHRIMP in OR	90217
BURNS ENTERPRISES, INC	SLEEP ROBBER	591482	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0862
BURNS ENTERPRISES, INC	SLEEP ROBBER	591482	HIGH SEAS in HSF	591482
BURNS ENTERPRISES, INC	SLEEP ROBBER	591482	CRAB in OR	96013
BURNS ENTERPRISES, INC	SLEEP ROBBER	591482	SHRIMP in CA	44008
BURNS ENTERPRISES, INC	SLEEP ROBBER	591482	SHRIMP in OR	90187
CAL-ALASKA FISH, INC	RESTLESS C II	555025	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0237
CAPT JACK, INC	CAPT JACK	516976	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0028
CAPT JACK, INC	CAPT JACK	516976	SHRIMP in OR	90188
CAPT JACK, INC	CAPT JACK	516976	CRAB in OR	96469
CROWLEY, DANIEL T AND CROWLEY, DEBORAH E	CHEROKEE	264573	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0703
DMJ, INC	DAKOTA	246957	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0753

Accepted bidder	Vessel		Permit	
	Name	Official No.	Fishery	Number
EVANOW, KARL M	CAPTAIN BRADLEY	505444	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0660
EVANOW, KARL M	CAPTAIN BRADLEY	505444	SHRIMP in CA	24177
EVANOW, KARL M	CAPTAIN BRADLEY	505444	CRAB in CA	24177
EVANS, PHILLIP NORMAN AND EVANS, WANDA SUE.	KINCHEL'OE	240804	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0592
EVANS, TRAVIS O AND EVANS, KATHERINE R	SIERRA MADRE	522508	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0037
F/V CAITO BROS, INC	CAITO BROS	238136	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0067
F/V CAITO BROS, INC	CAITO BROS	238136	SHRIMP in CA	1
F/V CAITO BROS, INC	CAITO BROS	238136	CRAB in CA	1
F/V CHRISTIE R, INC	CHRISTIE R	553235	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0448
F/V GABRIELE, INC	GABRIELE	947061	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0554
F/V GABRIELE, INC	GABRIELE	947061	HIGH SEAS in HSF	947061
F/V GABRIELE, INC	GABRIELE	947061	CRAB in OR	96337
F/V GABRIELE, INC	GABRIELE	947061	CRAB in CA	42671
F/V GABRIELE, INC	GABRIELE	947061	SHRIMP in OR	90177
F/V HIGH SEA, INC	HIGH SEA	532504	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0535
F/V HIGH SEA, INC	HIGH SEA	532504	SHRIMP in CA	20308
F/V HIGH SEA, INC	HIGH SEA	532504	CRAB in CA	20308
F/V ROSE MARIE, INC	CATHERINE ANN	634144	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0970
F/V ROSE MARIE, INC	CATHERINE ANN	634144	SHRIMP in CA	38037
FEMLING, ARTHUR O AND FEMLING, ETHEL M	LUCKY STRIKE	254713	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0690
FINZER FISHING, INC	ST. JANET	516881	BERING SEA GROUNDFISH in AKR.	LLG1629
FINZER FISHING, INC	ST. JANET	516881	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0912
FINZER FISHING, INC	ST. JANET	516881	HIGH SEAS in HSF	516881
GALLAWAY, WILLIAM H	ALIBI	250516	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0483
GALLAWAY, WILLIAM H	ALIBI	250516	SHRIMP in CA	8435
GALLAWAY, WILLIAM H	ALIBI	250516	CRAB in CA	8435
GAVIN-YOUNG, GP	TWO SISTERS	572657	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0304
GAVIN-YOUNG, GP	TWO SISTERS	572657	SHRIMP in CA	28939
GAVIN-YOUNG, GP	TWO SISTERS	572657	CRAB in CA	28939
GAVIN-YOUNG, GP	TWO SISTERS	572657	SHRIMP in OR	90013
GHERA, MICHAEL J	AQUARIUS	250385	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0608
GHERA, MICHAEL J	AQUARIUS	250385	SHRIMP in CA	2633
GHERA, MICHAEL J	AQUARIUS	250385	CRAB in CA	2633
GUNNARI, ROY E AND GUNNARI, ALICE I AND GREEN, DONALD WESLEY.	BILLIE JEAN	505917	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0162
GUNNARI, ROY E AND GUNNARI, ALICE I AND GREEN, DONALD WESLEY.	BILLIE JEAN	505917	SHRIMP in OR	90022
HODGES, MICHAEL E	KANGAROO	501228	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0413
HODGES, MICHAEL E	KANGAROO	501228	SHRIMP in OR	90134
HODGES, MICHAEL E	KANGAROO	501228	CRAB in OR	96474
HODGES, MICHAEL E	BETTY A	526744	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0404
HODGES, MICHAEL E	BETTY A	526744	HIGH SEAS in HSF	526744
HODGES, MICHAEL E	BETTY A	526744	SHRIMP in OR	90096
HOLM, HERBERT L AND HOLM, PHILOMENA M	JO-ELLEN	507051	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0165
HUNTER, WILLIAM C AND HUNTER, G A	TRAVIS WM	645476	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0264
HUNTERS OFFSHORE ENTERPRISES, INC	EL CERRITO	242928	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0299
HUNTERS OFFSHORE ENTERPRISES, INC	DENNIS GAYLE	252763	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0259
HUNTERS OFFSHORE ENTERPRISES, INC	WINGA	238849	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0266
HUNTERS OFFSHORE ENTERPRISES, INC	WINGA	238849	CRAB in CA	6850
HUNTERS OFFSHORE ENTERPRISES, INC	ALLEN CODY	255400	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0258

Accepted bidder	Vessel		Permit	
	Name	Official No.	Fishery	Number
HUNTERS OFFSHORE ENTERPRISES, INC	OREGON FLYER	601255	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0260
JACKSON, ROBERT D AND JACKSON, SHIRLEY L	JOHN ALLEN	564289	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0097
JACKSON, ROBERT D AND JACKSON, SHIRLEY L	JOHN ALLEN	564289	CRAB in OR	96411
JACKSON, ROBERT D AND JACKSON, SHIRLEY L	JOHN ALLEN	564289	SHRIMP in OR	90055
JAMES, FRANK AND JAMES, SYLVIA	LIMIT STALKER	299016	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0817
JAMES, FRANK AND JAMES, SYLVIA	LIMIT STALKER	299016	SHRIMP in WA	58003
JAMES, FRANK AND JAMES, SYLVIA	LIMIT STALKER	299016	SHRIMP in OR	90195
JOHNSON, CARROLL R	OUTLAW	512922	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0474
JOHNSON, CARROLL R	OUTLAW	512922	SHRIMP in CA	19278
JOHNSON, CARROLL R	OUTLAW	512922	CRAB in CA	19278
KRIZ, MICHAEL L	MERRICK LYNN	600712	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0147
KRIZ, MICHAEL L	MERRICK LYNN	600712	SHRIMP in OR	90006
LARKIN, MARION	LARKIN	599703	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0135
LARKIN, MARION	LARKIN	599703	HIGH SEAS in HSF	599703
LARKIN, MARION	LARKIN	599703	SHRIMP in WA	59642
LICATA, FRANCESCO AND LICATA, CATERINA	GENERAL PERSHING	229344	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0531
LUDAHL JR, ERNEST LEROY	CC & GLORIA	505269	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0785
M/V STEPHANIE, INC	STEPHANIE	215869	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0575
MCGEE, WAYNE F	MI–LO	503972	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0742
MCLAUGHLIN, LYNNE S	CANDI B	600669	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0329
MCLAUGHLIN, LYNNE S	CANDI B	600669	SHRIMP in CA	32727
MISS LINDA FISHERIES, INC	MISS LINDA	944169	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0088
MISS LINDA FISHERIES, INC	MISS LINDA	944169	HIGH SEAS in HSF	944169
MISS LINDA FISHERIES, INC	MISS LINDA	944169	SHRIMP in CA	40924
MISS LINDA FISHERIES, INC	MISS LINDA	944169	SHRIMP in WA	57908
MISS LINDA FISHERIES, INC	MISS LINDA	944169	SHRIMP in OR	90205
MORRISON, THOMAS H	PACIFIC QUEEN	249564	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0034
NEW WASHINGTON FISHERIES, INC	NEW WASHINGTON	236389	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0153
NEW WASHINGTON FISHERIES, INC	NEW WASHINGTON	236389	HIGH SEAS in HSF	236389
NYHUS, RICHARD E AND NYHUS, TRINA M	CATHY G	538806	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0134
NYHUS, RICHARD E AND NYHUS, TRINA M	CATHY G	538806	SHRIMP in WA	57388
NYHUS, RICHARD E AND NYHUS, TRINA M	CATHY G	538806	SHRIMP in OR	90199
NYLANDER, CHERYL	SEA SIREN	588685	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0089
NYLANDER, CHERYL	SEA SIREN	588685	HIGH SEAS in HSF	588685
OLYMPIC FISHERIES, INC	OLYMPIC	590263	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0077
OLYMPIC FISHERIES, INC	OLYMPIC	590263	HIGH SEAS in HSF	590263
OLYMPIC FISHERIES, INC	OLYMPIC	590263	SHRIMP in WA	57984
OLYMPIC FISHERIES, INC	OLYMPIC	590263	SHRIMP in OR	90093
PACIFIC STORM, INC	PACIFIC STORM	604146	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0354
PACIFIC STORM, INC	PACIFIC STORM	604146	HIGH SEAS in HSF	604146
PACIFIC STORM, INC	PACIFIC STORM	604146	CRAB in OR	96412
PACIFIC STORM, INC	PACIFIC STORM	604146	SHRIMP in OR	90074
PACIFIC SUN FISHERIES, INC	PACIFIC SUN IV	558072	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0502
PACIFIC SUN FISHERIES, INC	PACIFIC SUN IV	558072	HIGH SEAS in HSF	558072
PACIFIC SUN FISHERIES, INC	PACIFIC SUN IV	558072	SHRIMP in WA	57453
PACIFIC SUN FISHERIES, INC	PACIFIC SUN IV	558072	CRAB in WA	59937
PACIFIC SUN FISHERIES, INC	PACIFIC SUN IV	558072	SHRIMP in OR	90165
PANDALUS, INC	GINNY & JILL	299098	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0045
PANDALUS, INC	GINNY & JILL	299098	CRAB in OR	96197
PANDALUS, INC	GINNY & JILL	299098	SHRIMP in CA	34788
PANDALUS, INC	GINNY & JILL	299098	SHRIMP in OR	90003

Accepted bidder	Vessel		Permit	
	Name	Official No.	Fishery	Number
PARKER, DANNY D AND PARKER, SHERRIE R	SEA EAGLE	924174	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0455
PARKER, DANNY D AND PARKER, SHERRIE R	SEA EAGLE	924174	SHRIMP in OR	90125
PERSISTENCE FISHERIES, INC	PERSISTENCE	581823	ALEUTIAN ISLANDS GROUNDFISH in AKR.	LLG1663
PERSISTENCE FISHERIES, INC	PERSISTENCE	581823	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0255
PERSISTENCE FISHERIES, INC	PERSISTENCE	581823	SOUTHEAST OUTSIDE GROUNDFISH in AKR.	LLG1663
PERSISTENCE FISHERIES, INC	PERSISTENCE	581823	SHRIMP in OR	90128
PETTINGER, BRADLEY G	CASSIE	554975	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0822
PETTINGER, BRADLEY G	CASSIE	554975	SHRIMP in CA	36891
PETTINGER, BRADLEY G	CASSIE	554975	SHRIMP in OR	90224
PETTINGER, DAVID W	CHANTAL C	514043	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0558
PETTINGER, DAVID W	CHANTAL C	514043	CRAB in OR	96066
PETTINGER, DAVID W	CHANTAL C	514043	SHRIMP in OR	90139
PINTO, KEVIN AND PINTO, CAROL LEE	JENNA LEE	298016	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0085
POMILIA, VICTOR	SPIRIT OF ’76	571021	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0312
POMILIA, VICTOR	SPIRIT OF ’76	571021	SHRIMP in CA	27095
POMILIA, VICTOR	SPIRIT OF ’76	571021	CRAB in CA	27095
POMILIA, VICTOR	SPIRIT OF ’76	571021	SHRIMP in WA	60913
POMILIA, VICTOR	SPIRIT OF ’76	571021	SHRIMP in OR	90228
RETHERFORD, MICHAEL S AND RETHERFORD, KELLEY S.	KELLEY GIRL	527001	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0253
RETHERFORD, MICHAEL S AND RETHERFORD, KELLEY S.	KELLEY GIRL	527001	SHRIMP in WA	59355
RETHERFORD, MICHAEL S AND RETHERFORD, KELLEY S.	KELLEY GIRL	527001	SHRIMP in OR	90133
RIPKA, GARY A AND RIPKA, SHERRI	PACIFIC BREEZE	560081	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0668
RIPKA, GARY A AND RIPKA, SHERRI	PACIFIC BREEZE	560081	CRAB in OR	96281
RIPKA, GARY A AND RIPKA, SHERRI	PACIFIC BREEZE	560081	SHRIMP in WA	57439
RIPKA, GARY A AND RIPKA, SHERRI	PACIFIC BREEZE	560081	SHRIMP in OR	90101
ROSAAEN, TERRY M	TATIANA	632123	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0343
ROSAAEN, TERRY M	TATIANA	632123	HIGH SEAS in HSF	632123
ROSAAEN, TERRY M	TATIANA	632123	SHRIMP in CA	35814
ROSAAEN, TERRY M	TATIANA	632123	CRAB in CA	35814
SCHNAUBELT, RICHARD AND SCHNAUBELT, EDWARD.	CAPELLA	611508	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0526
SCHNAUBELT, RICHARD AND SCHNAUBELT, EDWARD.	CAPELLA	611508	SHRIMP in CA	34114
SCHNAUBELT, RICHARD AND SCHNAUBELT, EDWARD.	CAPELLA	611508	CRAB in CA	34114
SEA TOI FISHERIES, INC	CAP’N OSCAR	549436	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0170
SEA TOI FISHERIES, INC	CAP’N OSCAR	549436	SHRIMP in WA	57467
SEA TOI FISHERIES, INC	CAP’N OSCAR	549436	SHRIMP in OR	90115
SEATTLE FIRST NATIONAL BANK	PACIFIC O’RYAN	608197	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0792
SHEPHERD, RICK	SUNSET	225721	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0151
SHEPHERD, RICK	SUNSET	225721	SHRIMP in CA	687
SHEPHERD, RICK	SUNSET	225721	CRAB in CA	687
SMITH, J STANLEY AND SMITH, JANETTE AND SMITH, RANDY J.	MISS JO ANNE	529690	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0440
SMITH, J STANLEY AND SMITH, JANETTE AND SMITH, RANDY J.	MISS JO ANNE	529690	SHRIMP in CA	33034
SMITH, J STANLEY AND SMITH, JANETTE AND SMITH, RANDY J.	MISS JO ANNE	529690	CRAB in CA	33034
SMITH, J STANLEY AND SMITH, JANETTE AND SMITH, RANDY J.	MISS JO ANNE	529690	SHRIMP in WA	57416
SMITH, J STANLEY AND SMITH, JANETTE AND SMITH, RANDY J.	MISS JO ANNE	529690	SHRIMP in OR	90075
SMOTHERMAN, SALLY R	SEA BLAZER	588240	ENDORSEMENT TRAWL GEAR in NWR.	GF0139
SMOTHERMAN, SALLY R	SEA BLAZER	588240	HIGH SEAS in HSF	588240
SMOTHERMAN, SALLY R	SEA BLAZER	588240	SHRIMP in OR	90084

Accepted bidder	Vessel		Permit	
	Name	Official No.	Fishery	Number
STAFFENSON, DARRELL AND STAFFENSON, KERLYN.	JULEAN II	536809	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0123
STAFFENSON, DARRELL AND STAFFENSON, KERLYN.	JULEAN II	536809	SHRIMP in OR	90079
STAR POLARIS FISHERIES, INC	STAR POLARIS	522618	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0774
STAR POLARIS FISHERIES, INC	STAR POLARIS	522618	HIGH SEAS in HSF	522618
STAR POLARIS FISHERIES, INC	STAR POLARIS	522618	SHRIMP in OR	90225
THOMPSON, JERYL D	LINDA ELLEN	243269	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0506
THOMPSON, JERYL D	LINDA ELLEN	243269	SHRIMP in CA	7201
THOMPSON, JERYL D	LINDA ELLEN	243269	CRAB in CA	7201
TORACCA, GIOVANNI AND LEE, GORDON AND LEE, SHARON.	DAY DREAM	505277	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0110
VENTURE WEST, INC	VENTURE WEST	606361	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0114
VENTURE WEST, INC	VENTURE WEST	606361	SHRIMP in OR	90118
VENTURE WEST, INC	VENTURE WEST	606361	SHRIMP in CA	33398
VERNA JEAN, GP	MISS HEATHER	507945	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0302
VERNA JEAN, GP	MISS HEATHER	507945	HIGH SEAS in HSF	507945
VOUGHT, TROY KENT	DANDY BILL	585095	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0102
VOUGHT, TROY KENT	DANDY BILL	585095	HIGH SEAS in HSF	585095
VOUGHT, TROY KENT	DANDY BILL	585095	SHRIMP in CA	32468
WATERS, LARRY	MARIE ANN GAIL	209773	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0282
WESTERN PACIFIC TRAWLERS, INC	PACIFIC RAIDER	613704	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0356
WESTERN PACIFIC TRAWLERS, INC	PACIFIC RAIDER	613704	SHRIMP in OR	90152
WILLIAMS, CHARLES J	YUROK	607931	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0431
WILLIAMS, CHARLES J	YUROK	607931	CRAB in OR	96354
WILLIAMS, CHARLES J	YUROK	607931	SHRIMP in CA	34251
WILLIAMS, CHARLES J	YUROK	607931	CRAB in CA	34251
WILLIAMS, CHARLES J	YUROK	607931	SHRIMP in OR	90150
WOODEN, FORREST D	INTREPID	605553	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0096
WOODEN, FORREST D	INTREPID	605553	HIGH SEAS in HSF	605553
WOODEN, FORREST D	INTREPID	605553	SHRIMP in CA	34566
WOODEN, FORREST D	INTREPID	605553	CRAB in CA	34566
WOODEN, FORREST D	INTREPID	605553	SHRIMP in OR	90071
YAQUINA BAY, INC	AJA	587243	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0081
YAQUINA BAY, INC	AJA	587243	SHRIMP in OR	90056
YOUNG, RICHARD D AND YOUNG, MARY L	WILLOLA	591628	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0098
YOUNG, RICHARD D AND YOUNG, MARY L	WILLOLA	591628	SHRIMP in CA	31325
YOUNG, RICHARD D AND YOUNG, MARY L	WILLOLA	591628	CRAB in CA	31325
YOUNG, RICHARD D AND YOUNG, MARY L	CITY OF EUREKA	241896	ENDORSEMENT WITH TRAWL GEAR in NWR.	GF0099
YOUNG, RICHARD D AND YOUNG, MARY L	CITY OF EUREKA	241896	SHRIMP in CA	5601
YOUNG, RICHARD D AND YOUNG, MARY L	CITY OF EUREKA	241896	CRAB in CA	5601

Authority: Pub. L. 107–206, Pub. L. 108–7, 16 U.S.C. 1861a(b–e), and 50 CFR 600.1000 *et seq.*

Dated: October 30, 2003.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 03–27712 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102803C]

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Notice that Vendor Will Provide Year 2004 Cage Tags

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

ACTION: Notice of vendor to provide year 2004 cage tags.

SUMMARY: NMFS informs surfclam and ocean quahog allocation owners that they will be required to purchase their year 2004 cage tags from a vendor. The intent of this notice is to comply with regulations for the surfclam and ocean quahog fisheries and to promote efficient distribution of cage tags.

ADDRESSES: Written inquiries may be sent to Douglas W. Christel, National Marine Fisheries Service, Northeast

Regional Office, One Blackburn Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, Fishery Management Specialist, (978) 281–9141; fax 978–281–9135; e-mail *Douglas.Christel@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Federal Atlantic surfclam and ocean quahog fisheries regulations at 50 CFR 648.75(b) authorize the Regional Administrator of the Northeast Region, NMFS, to specify in the **Federal Register** a vendor from whom cage tags, required under the fishery management plan, shall be purchased. Notice is hereby given that National Band and Tag Company of Newport, Kentucky, is the authorized vendor of cage tags required for the year 2004 Federal surfclam and ocean quahog fisheries. Detailed instructions for purchasing these cage tags will be provided in a letter to allocation owners in these fisheries within the next several weeks.

Authority: 16 U.S.C. 18*01 et. seq.*

Dated: October 28, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–27687 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102703A]

Mid-Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder Monitoring Committee, Scup Monitoring Committee, and Black Sea Bass Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on Wednesday, November 19, 2003 beginning at 9 a.m. with the Summer Flounder Monitoring Committee, followed by the Scup Monitoring Committee and the Black Sea Bass Monitoring Committee.

ADDRESSES: The meeting will be held at the Marriott Courtyard, 1671 West Nursery Road, Linthicum, MD, telephone: 410–859–8855.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone: 302–674–2331.

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

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to recommend the 2004 recreational management measures for summer flounder, scup, and black sea bass.

Although non-emergency issues not contained in this agenda may come before the Committee for discussion, those issues may not be subject of formal Committee action during this meeting. Committee action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 205(c) of the Magnuson-Stevens Act, provided the public has been notified of the Committee's intent to take final action to address the emergency.

Special Accommodations

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

Dated: October 27, 2003.

Richard W. Surdi,

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

[FR Doc. 03–27604 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100903F]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Groundfish Habitat Technical Review Committee will hold a working meeting. The meeting is open to the public.

DATES: The Ad Hoc Groundfish Habitat Technical Review Committee working meeting will begin Thursday, November 20 at 8:30 a.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m. Friday, November 21.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, NOAA, NMFS, Santa Cruz Laboratory, Conference Room, 110 Shaffer Road, Santa Cruz, CA 95060, Contact: Ms. Cheryl Kaine; 831–420–3933.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384; telephone: 503–820–2280.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Dahl, NEPA Specialist, Pacific Fishery Management Council, telephone: 503-820-2280, email: *kit.dahl@noaa.gov*.

SUPPLEMENTARY INFORMATION: The purpose of the Ad Hoc Groundfish Habitat Technical Review Committee meeting is to guide the ongoing assessment of essential fish habitat for Pacific coast groundfish. On November 20-21, the committee will review technical elements of the assessment in order to provide feedback and direction to NMFS and the Council. By holding a public meeting, the committee will provide opportunity for public participation in the assessment process. The committee will only consider technical and scientific questions related to the assessment and will not engage in policy discussions as part of its mission.

Although non-emergency issues not contained in the committee meeting agenda may come before the committee for discussion, those issues may not be the subject of formal committee action during thee meetings. Ad Hoc Habitat Technical Review Committee action will be restricted to those issues specifically listed in this document and to any issues arising after publication of this document requiring emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the committee's intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cheryl Kaine at (831) 420–3933, at least 7 days prior to the meeting date.

Dated: October 24, 2003.

Richard W. Surdi,

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

[FR Doc. 03–27603 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

October 29, 2003.

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

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: November 4, 2003.

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

SUPPLEMENTARY INFORMATION:

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

The current limit for Categories 340/640 is being increased for swing from Categories 237, 336/636, and 341, reducing the limits for these categories to account for the swing being applied to Categories 340/640.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also see 67 FR 65339, published on October 24, 2002.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 2003.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 18, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on November 4, 2003, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	317,796 dozen.
336/636	704,254 dozen.
340/640	5,984,544 dozen.
341	4,275,794 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–27643 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Nepal

October 29, 2003.

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

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection.

EFFECTIVE DATE: November 4, 2003.

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

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being adjusted for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also see 67 FR 63631, published on October 15, 2002.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 2003.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 8, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man–made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on November 4, 2003, you are directed to adjust the limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Nepal:

Category	Adjusted twelve-month limit [1]
341	1,099,454 dozen.
369-S [2]	1,203,605 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–27644 Filed 11–3–03; 8:45 am]

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the President's Volunteer Service Awards (PVSA), parts A, B, C, D and E. Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by January 5, 2004.

ADDRESSES: Send comments to: Corporation for National and Community Service, Office of Public Affairs, Attn: Rhonda Taylor, (project officer), 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Rhonda Taylor, (202) 606–5000, ext. 282, or by e-mail at *rtaylor@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and,
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

I. Background

The President's Council on Service and Civic Participation was created by Executive Order 13285 on January 29, 2003. The Council is administered by the Corporation for National and Community Service. Under the Executive Order, the Council is directed to (among other things) design and recommend programs to recognize individuals, schools, and organizations that excel in their efforts to support volunteer service and civic participation, especially with respect to students in primary schools, secondary schools, and institutions of higher learning. The Council will bestow the President's Volunteer Service Award to meet this requirement. In order to recognize individuals, schools and organizations, the program must collect information about the individuals and organizations and their activities to verify that they have earned the award.

The information collected will be used by the program primarily to select winners of the President's Volunteer Service Awards and the Call to Service Awards (4000 hours or more). Individuals or organizations can be nominated by an organization or third party. The nominations will be reviewed for compliance by the administering agency, and awards will be made on that basis. Information also will be used to assure the integrity of the program (so that, for example, an individual or organization does not receive an award twice for the same project), for reporting on the accomplishments of the program, for the public awareness campaign (such as press releases and website information on winning projects), and to further the purposes of the Executive Order (such as fostering partnerships and coordination of projects and to promote civic engagement).

II. Current Action

The Corporation submitted a request for emergency review and approval by OMB of the PVSA on August 8, 2003 with no public comment period. On August 20, 2003, OMB approved the emergency request for a period of six months and assigned OMB Control Number 3045–0086 with an expiration date of February 29, 2004. Therefore, the Corporation is now seeking public comment regarding the President's Volunteer Service Awards, parts A, B, C, D and E.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: President's Volunteer Service Awards, parts A, B, C, D and E.

OMB Number: 3045–0086.

Agency Number: None.

Affected Public: All citizens of the United States.

Total Respondents: 200,000.

Frequency: On occasion.

Average Time Per Response: 20 minutes.

Estimated Total Burden Hours: 100,000 hours.

Total Burden Cost (capital/startup): 1,654,000.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 28, 2003.

Barbara A. Taylor,

Director, Office of Public Affairs.

[FR Doc. 03–27607 Filed 11–3–03; 8:45 am]

BILLING CODE 6050–$$–U

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Reinstatement With Change of a Previously Approved Collection for Which Approval Has Expired; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in

accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. This form is available in alternate formats. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Currently, the Corporation is soliciting comments concerning the reinstatement with changes, of a previously approved information collection activity, which has expired. The Accomplishments Surveys of National Senior Service Corps Programs (reference OMB Control Number 3045–0049) expired on 8/31/2001. This request for reinstatement with changes reflects the Corporation's intent to conduct Accomplishment Surveys for its three National Senior Service Corps programs: the Foster Grandparent Program, the Senior Companion Program, and the Retired and Senior Volunteer Program.

Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by January 5, 2004.

ADDRESSES: Send comments to: Corporation for National and Community Service, Attn. Nathan Dietz, Department of Research and Policy Development, 1201 New York Avenue, NW., Washington, DC, 20525.

FOR FURTHER INFORMATION CONTACT: Nathan Dietz, (202) 606–5000, ext. 287, or by e-mail at *ndietz@cns.gov*.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and,
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION: The Corporation seeks to reinstate its previously used Accomplishments Survey to collect information about local project volunteer activities, inputs, and accomplishments. This study will be conducted under contract with Westat, Inc. (#CNCSHQC03003, Task Order #WES03T001). This information will be used by the Corporation to prepare its Annual Performance Reports, and to respond to ad hoc requests from Congress and other interested parties. The prior versions of these surveys were used most recently during the 1999–2000 program year.

The revised Accomplishment Surveys for National Senior Service Corps Programs will be distributed to samples of volunteer work stations for each program. Local grantees, or projects, place volunteers in local organizational settings where they are supervised by organizational staff. These work station volunteer supervisors will complete the survey.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Corporation for National and Community Service.

Title: Accomplishments Surveys of National Senior Service Corps Programs.

OMB Number: Previously assigned 3045–0049.

Agency Number: None.

Affected Public: Foster Grandparent, Senior Companion, and Retired and Senior Volunteer programs, and staff of agencies and organizations serving as volunteer work stations for volunteers from those programs.

Type of Respondents: Volunteer coordinators in volunteer work stations.

Total Respondents: 2,500.

Frequency: March and April, 2004.

Estimated Total Burden Hours: 1,250 hours total for all respondents/sites.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 29, 2003.

Nathan Dietz,

Research Associate, Office of Research and Policy Development.

[FR Doc. 03–27632 Filed 11–3–03; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee Meeting

AGENCY: Department of the Army, DOD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name of Committee: Distance Learning/Training Technology Subcommittee of the Army Education Advisory Committee.

Date: November 12–13, 2003.

Place: Fort Eustis, VA.

Time: 8 a.m. to 4:30 p.m. on November 12, 2003; 8 a.m. to 12 p.m. on November 13, 2003.

Proposed Agenda: Initial starting point of meeting will include Updates on The Army Distance Learning Program (TADLP) and infrastructure, followed by discussions that focus on learning and technology.

Purpose of the Meeting: To provide for the continuous exchange of information and ideas for distance learning between the US Army Training and Doctrine Command (TRADOC), Headquarters, Department of the Army, and the academic and business community.

FOR FURTHER INFORMATION CONTACT: All communications regarding this subcommittee should be addressed to Mr. Rick Karpinski, at Commander, Headquarters TRADOC, ATTN: ATTG–CF (Mr. Karpinski), Fort Monroe, VA 23651–5000; e-mail *karpinsr@monroe.army.mil.*

SUPPLEMENTARY INFORMATION: Meeting of the advisory committee is open to the public. Because of restricted meeting space, attendance will be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intention to attend. Contact Mr. Karpinski (*karpinsr@monroe.army.mil*) for meeting agenda and specific locations.

Any member of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the

committee chairman may allow public presentations or oral statements at the meeting.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–27675 Filed 10–30–03; 3:42 pm]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 4, 2004.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 29, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Annual Performance Reporting Forms for National Institute on Disability and Rehabilitation Research (NIDRR) Grantees (RERCs, RRTCs, FIRs, ARRTs, DBTACs, DRRPs, MSs, D&Us).

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 279.

Burden Hours: 4,464.

Abstract: Information collection to obtain annual program and performance data from NIDRR grantees on their project activities. The information collected will be used for monitoring grantees and for NIDRR program planning, budget development and reporting on Government Performance and Results Act (GPRA) indicators.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2366. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@omb.eop.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–27609 Filed 11–3–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

RIN 1890–ZA00

Scientifically Based Evaluation Methods

AGENCY: Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Secretary of Education proposes a priority that may be used for any appropriate programs in the Department of Education (Department) in FY 2004 and in later years. We take this action to focus Federal financial assistance on expanding the number of programs and projects Department wide that are evaluated under rigorous scientifically based research methods in accordance with the Elementary and Secondary Education Act (ESEA) as reauthorized by the No Child Left Behind Act of 2001 (NCLB). Establishing the priority on a Department-wide basis would permit any office to use the priority for a program for which it is appropriate.

DATES: We must receive your comments on or before December 4, 2003.

ADDRESSES: Address all comments about this proposed priority to Margo K. Anderson, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W333, Washington, DC 20202–5910. If you prefer to send your comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term ''Evaluation'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Margo Anderson. Telephone: (202) 205–3010 or via Internet at *Margo.Anderson@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or

increase potential benefits while preserving the effective and efficient administration of the Department's programs.

During and after the comment period, you may inspect all public comments about this proposed priority in room 4W333, 400 Maryland Avenue, SW., Washington, DC between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

General

The ESEA as reauthorized by the NCLB uses the term *scientifically based research* more than 100 times in the context of evaluating programs to determine what works in education or ensuring that Federal funds are used to support activities and services that work. This proposed priority is intended to ensure that Federal funds are used to support projects and activities that are consistent with a statutory purpose of Department programs, and evaluated using scientifically based research. Establishing this priority makes it possible for any office in the Department to encourage or to require appropriate projects to use scientifically based evaluation strategies to determine the effectiveness of a project intervention.

Discussion of Proposed Priority

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering public comments on this proposed priority and other information available to the Department. This notice does not preclude the Secretary from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this proposed priority, we invite applications for new awards under the applicable program through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive preference priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Proposed Priority

The Secretary proposes a priority for program projects proposing an evaluation plan that is based on rigorous scientifically based research methods to assess the effectiveness of a particular intervention. The Secretary intends that this priority will allow program participants and the Department to determine whether the project produces meaningful effects on student achievement or teacher performance.

Evaluation methods using an experimental design are best for determining project effectiveness. Thus, the project should use an experimental design under which participants—*e.g.*, students, teachers, classrooms, or schools—are randomly assigned to participate in the project activities being evaluated or to a control group that does not participate in the project activities being evaluated.

If random assignment is not feasible, the project may use a quasi-experimental design with carefully matched comparison conditions. This alternative design attempts to approximate a randomly assigned control group by matching participants—*e.g.*, students, teachers, classrooms, or schools—with non-participants having similar pre-program characteristics.

In cases where random assignment is not possible and an extended series of observations of the outcome of interest precedes and follows the introduction of a new program or practice, regression discontinuity designs may be employed.

For projects that are focused on special populations in which sufficient numbers of participants are not available to support random assignment or matched comparison group designs, single-subject designs such as multiple baseline or treatment-reversal or interrupted time series that are capable of demonstrating causal relationships can be employed.

Proposed evaluation strategies that use neither experimental designs with random assignment nor quasi-experimental designs using a matched comparison group nor regression discontinuity designs will not be considered responsive to the priority when sufficient numbers of participants are available to support these designs. Evaluation strategies that involve too small a number of participants to support group designs must be capable of demonstrating the causal effects of an intervention or program on those participants.

The proposed evaluation plan must describe how the project evaluator will collect—before the project intervention commences and after it ends—valid and reliable data that measure the impact of participation in the program or in the comparison group.

If the priority is used as a competitive preference priority, points awarded under this priority will be determined by the quality of the proposed evaluation method. In determining the quality of the evaluation method, we will consider the extent to which the applicant presents a feasible, credible plan that includes the following:

(1) The type of design to be used (that is, random assignment or matched comparison). If matched comparison, include in the plan a discussion of why random assignment is not feasible.

(2) Outcomes to be measured.

(3) A discussion of how the applicant plans to assign students, teachers, classrooms, or schools to the project and control group or match them for comparison with other students, teachers, classrooms, or schools.

(4) A proposed evaluator, preferably independent, with the necessary background and technical expertise to carry out the proposed evaluation. An independent evaluator does not have any authority over the project and is not involved in its implementation.

In general, depending on the implemented program or project, under a competitive preference priority, random assignment evaluation methods will receive more points than matched comparison evaluation methods.

Executive Order 12866

This notice of proposed priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priority are those

we have determined as necessary for administering applicable programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priority, we have determined that the benefits of the proposed priority justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

Some of the programs affected by this proposed priority are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number does not apply.)

Program Authority: ESEA, as reauthorized by the No Child Left Behind Act of 2001, Pub. L. 107–110, January 8, 2002.

Dated: October 29, 2003.

Rod Paige,

Secretary of Education.

[FR Doc. 03–27699 Filed 11–3–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–29–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 29, 2003.

Take notice that on October 22, 2003, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff) effective November 1, 2003, the following tariff sheets:

1st Revised Sixty-First Revised Sheet No. 8A
1st Revised Fifty-Third Revised Sheet No. 8A.01
1st Revised Fifty-Third Revised Sheet No. 8A.02
Twelfth Revised Sheet No. 8A.04
1st Revised Fifty-Sixth Revised Sheet No. 8B
1st Revised Forty-Ninth Revised Sheet No. 8B.01
1st Revised Sixth Revised Sheet No. 8B.02

FGT states that on October 1, 2003, FGT filed a Section 4 Rate Case with a proposed effective date of November 1, 2003. FGT states that in anticipation that the Commission will exercise its authority under Section 4(e) of the NGA to suspend the effective date of the tariff sheets related to that filing, the proposed tariff revisions have been modified from the currently effective tariff sheets filed August 29, 2003 in Docket No. RP03–582–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary''. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00162 Filed 11–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–31–000]

Gas Transmission Northwest Corporation; Notice of Proposed Change in FERC Gas Tariff

October 29, 2003.

Take notice that on October 22, 2003, Gas Transmission Northwest Corporation (GTN) tendered for filing First Revised Sheet No. 213 to be part of its FERC Gas Tariff, Third Revised Volume No. 1–A. GTN states that this sheet is being filed to clarify how firm shippers, with both evergreen rights and the right of first refusal, may exercise their right of first refusal. GTN requests that the Commission accept the proposed tariff sheet to be effective November 21, 2003.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary''. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings.

See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00163 Filed 11–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–361–015]

Gulfstream Natural Gas System, L.L.C.; Notice of Compliance Filing

October 29, 2003.

Take notice that on October 23, 2003, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Sub Original Sheet No. 8K, reflecting an effective date of August 1, 2003.

Gulfstream states that it is making this filing pursuant to an order issued by the Commission in the captioned docket on October 8, 2003. Pursuant to the October 8 Order, Gulfstream states it is clarifying that the Park transaction described by the tariff sheet applies to all points on the system.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions, as well as all parties on the Commission's Official Service List compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the eFiling link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00159 Filed 11–03–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–52–047]

Southern Star Central Gas Pipeline, Inc.; Notice of Amendment to Filing of Refund Report

October 29, 2003.

Take notice that on October 22, 2003, Southern Star Central Gas Pipeline, Inc. (Southern Star), formerly Williams Gas Pipelines Central, Inc., tendered for filing its amendment to its Refund Report filed on June 5, 2003 in the above-referenced docket.

Southern Star states that this filing is being made to comply with Commission Letter Order issued September 23, 2003. The September 23 Letter Order directed Southern Star to file an amended report within 30 days of the order to provide: (1) The annual accounting of ad valorem taxes received from producers (with principal and interest shown separately) and/or refunds made by Southern Star since the last refund report of May 24, 2002; and (2) the refund accounting and status for all producers listed in the May 24, 2002 Refund Report with refund obligations, including Northern Pump, Clark Exploration, Andover Oil, Steve Smith and Williams Engineering.

Southern Star states that a copy of its amended filing was served on all parties included on the official service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the eFiling link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00157 Filed 11–03–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–27–000]

Texas Eastern Transmission, LP; Notice of Filing

October 29, 2003.

Take notice that on October 21, 2003, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, Second Revised Sheet No. 555, effective November 20, 2003.

Texas Eastern states that the purpose of this filing is to revise Section 4.1(J) of the General Terms and Conditions (GT&C) of its tariff to be consistent with the Commission's October 7, 2003, ''Order on Rehearing and Compliance Filings'' issued in Docket Nos. RP00–468, RP01–25, and RP03–175, *et al.*, as well as GT&C §§ 4.2 and 30.6(c).

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary''. Enter the docket number excluding the last three digits in the docket number

field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link.

Comment Date: November 5, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00160 Filed 11–03–03;8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–28–000]

Tuscarora Gas Transmission Company; Notice of Tariff Filing

October 29, 2003.

Take notice that on October 22, 2003, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff Original Volume No. 1, the revised tariff sheets listed on appendix A of the filing, to be effective November 21, 2003.

Tuscarora states that the purpose of this filing is to modify the Tuscarora tariff to: (1) Achieve consistency between the form of FT service agreement and the General Terms and Conditions with respect to the right of first refusal; (2) update certain contact and company information; (3) correct page and section references as well as references to the Commission's regulations; (4) delete certain provisions that are either outdated or are no longer applicable due to other previously modified provisions; and (5) make miscellaneous non-substantive housekeeping changes to various sections of the Tuscarora Tariff.

Tuscarora states that copies of the filing were mailed to all affected customers of Tuscarora and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary''. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00161 Filed 11–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL04–12–000, et al.]

Springerville Unit 3 Holding LLC, et al.; Electric Rate and Corporate Filings

October 28, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Springerville Unit 3 Holding LLC

[Docket No. EL04–12–000]

Take notice that on October 20, 2003, Springerville Unit 3 Holding LLC (Springerville), on behalf of certain grantor trusts, business trusts and/or limited liability companies of which financial institutions would be the sole beneficiaries or members, filed with the Federal Energy Regulatory Commission a petition for declaratory order disclaiming jurisdiction. Springerville states that it is seeking a disclaimer of jurisdiction in connection with a lease financing involving a Facility under development in Springerville, Arizona.

Comment Date: November 19, 2003.

2. Golden Spread Electric Cooperative, Inc.

[Docket No. EL04–13–000]

Take notice that on October 23, 2003, Golden Spread Electric Cooperative, Inc. (Golden Spread) submitted a request for continued waiver of Order Nos. 888 and 889.

Comment Date: November 13, 2003.

3. Nevada Power Company

[Docket Nos. ER03–1230–000 and ER03–1231–000]

Take notice that on October 22, 2003, Nevada Power Company (Nevada Power) submitted for filing a Notice of Withdrawal of Filings in connection with two executed Network Integration Transmission Service Agreements and related Network Operating Agreements filed on August 21, 2003.

Comment Date: November 12, 2003.

4. Ameren Services Company

[Docket No. ER03–1270–001]

Take notice that on October 22, 2003, Ameren Services Company (Ameren) submitted revisions to an unexecuted Network Integration Transmission Service Agreement and unexecuted Network Operating Agreement between Ameren and Soyland Power Cooperative, Inc. (Soyland). Ameren states that it filed the agreements on August 29, 2003 and this submission only modifies the Order No. 614 designations. Ameren seeks an effective date of September 1, 2003, the date requested in the August 29, 2003 filing. Ameren states that it has served a copy of this submission on Soyland.

Comment Date: November 12, 2003.

5. Energy Cooperative of New York, Inc.

[Docket No. ER03–1294–001]

Take notice that on October 22, 2003, Energy Cooperative of New York, Inc. (ECNY) submitted current tariff sheets to replace the company's former name Energy Cooperative of Western New York, Inc. with the correct, current name, ECNY.

Comment Date: November 12, 2003.

6. Wisconsin Electric Power Company

[Docket No. ER03–1313–001]

Take notice that on October 22, 2003, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing a Supplemental Filing to support the Revision to Exhibit B of First Revised Power Sales Agreement between Wisconsin Electric and Wisconsin Public Power, Inc. (WPPI), filed with the Commission on September 8, 2003. Wisconsin Electric states that the supplemental filing is intended to provide additional information to support the September 8, 2003 filing.

Comment Date: November 12, 2003.

7. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–63–000]

Take notice that on October 22, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO)

submitted for filing a Notice of Succession of certain Transmission Service Agreements and Network Integration Transmission Service and Operating Agreements entered into by and between American Transmission Systems, Incorporated (ATSI), a subsidiary of FirstEnergy Corp. (FirstEnergy), and various transmission customers.

The Midwest ISO has requested waiver of the sixty-day effective date and has requested an effective date of October 1, 2003, the date the provision of transmission services across the transmission facilities of ATSI under the various ongoing Transmission Service Agreements and Network Integration Transmission Service and Operating Agreements commenced under the Midwest ISO OATT.

The Midwest ISO states it has served a copy of this filing upon the affected customers. Midwest ISO further states it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region. Midwest ISO states that the filing has been electronically posted on the Midwest ISO's Web site at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: November 12, 2003.

8. American Electric Power Service Corporation

[Docket No. ER04–64–000]

Take notice that on October 22, 2003, American Electric Power Service Corporation (AEPSC) submitted for filing unexecuted Service Agreements for ERCOT Regional Transmission Service (TSA) between AEPSC and the customers listed within the application. AEPSC also submitted for filing an executed Interconnection Agreement between AEP Texas North Company and the City of Brady, Texas.

AEPSC seeks an effective date of January 1, 2003 for the TSA's and the Interconnection Agreement. AEPSC states that they have served copies of the filing upon the TSA Customers and the Public Utility Commission of Texas.

Comment Date: November 12, 2003.

9. Entergy Services, Inc.

[Docket No. ER04–65–000]

Take notice that on October 22, 2003, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc. (Entergy Louisiana), tendered for filing of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Louisiana and Vulcan Chemical.

Comment Date: November 12, 2003.

10. Wisconsin Public Service Corporation

[Docket No. ER04–67–000]

Take notice that, on October 23, 2003, Wisconsin Public Service Corporation (WPSC) tendered for filing three revised service agreements between WPSC and Washington Island Electric Cooperative (Washington Island), WPSC and Manitowoc Public Utilities (Manitowoc) and WPSC and Upper Peninsula Power Company (UPPCo) (Revised Service Agreements). The Revised Service Agreements are being filed under WPSC's FERC Electric Tariff, Fourth Revised Volume No. 1.

WPSC respectfully requests that the Commission allow the Revised Service Agreements to become effective as of January 1, 2004.

WPSC states that a copy of the filing was served upon Washington Island, Manitowoc, UPPCo, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment Date: November 13, 2003.

11. NEGT Energy Trading—Power, L.P.

[Docket No. ER04–69–000]

Take notice that on October 23, 2003, NEGT Energy Trading—Power, formerly known as PG&E Energy Trading—Power, L.P., submitted for filing a Notice of Succession, pursuant to Sections 35.16 and 131.51 of the Commission's Regulations. NEGT Energy Trading—Power, L.P. states that it changed its name from PG&E Energy Trading Power, L.P., effective on October 9, 2003.

Comment Date: November 13, 2003.

12. Golden Spread Electric Cooperative, Inc.

[Docket No. ER04–70–000]

Take notice that on October 23, 2003, Golden Spread Electric Cooperative, Inc. (Golden Spread) tendered for filing an amendment to its rate schedules for service to its member cooperatives. Golden Spread states that the filing amends Rider A to the Special Facilities Charge to the Wholesale Electric Contracts. Golden Spread requests an effective date of December 22, 2003.

Golden Spread states that a copy of this filing has been served upon all of Golden Spread's members and the appropriate state commissions.

Comment Date: November 13, 2003.

13. Golden Spread Electric Cooperative, Inc.

[Docket No. ER04–71–000]

Take notice that on October 23, 2003, Golden Spread Electric Cooperative, Inc. (Golden Spread) tendered for filing Special Facilities Agreement (Agreement) to implement charges under Rider A of Schedule B (System Service Rate) of its Rate Schedules No. 31 for service to South Plains Electric Cooperative, Inc. (South Plains). Golden Spread states that the filing, which seeks an effective date of December 22, 2003, will provide for flow through under Rider A of charges related to Golden Spread's acquisition and operation of certain electric lines and related substations used for service to South Plains.

Golden Spread states that a copy of this filing has been served upon all of Golden Spread's members and the appropriate state commissions.

Comment Date: November 13, 2003.

14. Dispersed Generating Company, LLC

[Docket No. ER04–72–000]

Take notice that on October 23, 2003, Dispersed Generating Company, LLC, pursuant to Sections 35.16 and 131.51 of the Commission's Regulations, hereby submits a Notice of Succession notifying the Commission that, effective October 9, 2003, PG&E Dispersed Generating Company, LLC changed its name to Dispersed Generating Company, LLC.

Comment Date: November 13, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For

assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00156 Filed 11–03–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD03–7–002]

Natural Gas Price Formation; Second Supplemental Notice of Staff Workshop on Market Activity and Price Indicators

October 29, 2003.

As announced in the Notices issued October 15 and the Supplemental Notice of October 23, 2003, the Commission's staff will hold a Workshop from 10 a.m. to 5 p.m. on Tuesday, November 4, 2003, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. This second supplemental Notice provides additional information on the Workshop.

Workshop Presentations

This Workshop is intended to be a substantive and informative discussion of the issues and questions contained in the October 15th and 23rd, 2003 Notices by those participating in the Workshop, and presentations are not expected. However if participants deem it necessary to make brief presentations (up to 5 minutes) to make a point on any of these issues or questions, they may do so.

If you decide a presentation is necessary, Jolanka Fisher must be notified as soon as possible to determine if and how your presentation fits into the Workshop's program. Please plan on bringing 100 paper copies for Workshop attendees. In addition, to allow teleconference participants access to the presentation, please submit the presentations in electronic format via FERC's e-Filing system at *www.ferc.gov*. Select the filing type ''Production of Document'' and file under Docket No. AD03–7–002. Contact *FERCOnlineSupport@ferc.gov*, or call 1–866–208–3676 if you need assistance with the electronic filing system. Please file your presentation electronically by 9 am on Tuesday, November 4. This will ensure that all presentations are made part of the official record and will allow for timely posting on FERC's Public Calendar, which can be accessed at: *http://www.ferc.gov/EventCalendar/EventDetails.aspx?ID=513&CalType=&Date=11%2f4%2f2003&CalendarID=0*. Anyone wishing to bring or file a position paper in connection with the issues and questions being discussed at this Workshop is welcome to do so.

Workshop Format

The Workshop will be in roundtable format. It will begin with the price publishers describing current practices, and the availability of liquidity and market activity information. The remainder of the Workshop will allow other participants to address the issues and questions contained in the Notices issued on October 15 and 23, 2003.

For additional information please contact Jolanka Fisher, 202–502–8863 or by e-mail at *Jolanka.Fisher@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00164 Filed 11–03–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1656–000, ER03–1046–000, RT01–85–000, and RM01–12–000]

California Independent System Operator Corp., Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design; Notice of Technical Conference

October 29, 2003.

As announced in the Notice of Technical Conference issued on August 15, 2003, a technical conference will be held on November 6, 2003, to discuss with states and market participants in California the timetables for addressing wholesale power market design issues and to explore ways to provide flexibility the region may need to meet the requirements of the final rule in this proceeding. Members of the Commission will attend and participate in the discussion.

The conference will focus on the issues identified in the agenda, which is appended to this notice as Attachment A. However, participants/stakeholders may present their views on other important issues that relate to the development of the Wholesale Power Market Platform.

The conference will begin at 10 a.m. Pacific Time and will adjourn at about 5 p.m. Pacific Time in the auditorium of the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California. The conference is open for the public to attend, and registration is not required; however, in-person attendees are asked to register for the conference on-line by close of business on Tuesday, November 4, 2003, at *http://www.ferc.gov/whats-new/registration/smd_1106-form.asp*.

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's ''eLibrary'' seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity to remotely listen to the conference via the Internet or a Phone Bridge Connection for a fee. Interested persons should make arrangements as soon as possible by visiting the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and clicking on ''FERC.'' If you have any questions contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100).

For more information about the conference, please contact: Sarah McKinley at (202) 502–8004 or *sarah.mckinley@ferc.gov*.

Magalie R. Salas,

Secretary.

Appendix A—Agenda

10–10:20 a.m.—Opening Remarks

- Pat Wood, III, Chairman, Federal Energy Regulatory Commission
- Michael Peevey, President, California Public Utilities Commission
- William Keese, Chairman, California Energy Commission

10:20–10:40 a.m. Discussion of the State of the California ISO's Market Redesign

- California ISO Presentation: Overview of Current Operations of the CAISO, including MD02 Phase 1A—Spence Gerber
- FERC Staff Presentation: Overview of MD02 Phases 1B, 2 and 3 Elements, including recent FERC actions—JB Shipley

10:40–12 p.m.—Implementation Issues Related to Locational Marginal Pricing and Grid Congestion Management with Congestion Revenue Rights

Discussion Topics

Does the CAISO MD02 Proposal:

* Provide native load with sufficient CRRs to hedge existing load and a process to hedge anticipated load growth?

* Provide market participants who wish to hold CRRs an adequate opportunity to obtain them?

* Properly maintain existing rights and obligations for transmission service in the transition to the full network model?

* Properly maintain existing rights and obligations to provide energy and capacity in the transition to the full network model?

* Adequately protect customers from congestion charges consistent with existing implicit and explicit transmission rights?

* Affect scheduling or other rights under existing contracts?

Panelists

Ann Cohn, Southern California Edison Company
Lorenzo Kristof, California Independent System Operator
Phil Auclair, Mirant
Jim Caldwell, American Wind Energy Association
Joe Desmond, Silicon Valley Manufacturers
12–12:10 p.m.—Break
12:10–1:30 p.m.—Transitional Issues: Existing Transmission Contracts (ETCs) and Bilateral Contracts

Discussion Topics:

Does the CAISO MD02 Proposal:

* Adequately alleviate ''phantom congestion'' and its financial impact?

* Properly incorporates rights under bilateral contracts and ETCs into the overall market?

* Clearly address any impact of LMP on contracts that have only a broadly defined delivery point, *i.e.*, seller's choice contracts?

Panelists

Steve Metague, Pacific Gas & Electric Company
Brian Theaker, California Independent System Operator
Tony Braun, California Municipal Utilities Association
Steve Schleimer, Calpine Corp.
Pete Garris, California Department of Water Resources
Tom Hoatson, Goldman Sachs
1:30–2:30 p.m.—Lunch
2:30–2:45 p.m.—Opening Remarks

• California Public Utilities Commission Presentation: Overview of Current Procurement Proceeding and Energy Action Plan and Infrastructure Development in California—Paul Clanon

2:45–3:45 p.m.—Market Mitigation, Resource Adequacy under the White Paper and its Relationship to Market Design Elements

Discussion Topics

How is California addressing Resource Adequacy and does it:

* Create a structure that supports long-term pricing and investment?

* Result in the appropriate signals for load and generation to forward contract?

* Provide for the appropriate relationship between resource adequacy and the ISO market design elements, such as market power mitigation?

* Provide for an appropriate mechanism for financing new power plants and retaining existing merchant generation in operation?

Panelists

Curtis Kebler, Reliant Resources, Inc.
Jim Hendry, California Public Utilities Commission
Keith Casey, California Independent System Operator
Jan Smutney-Jones, Independent Energy Producers Association
Severin Borenstein, University of California Energy Institute
3:45–4:30 p.m.—Regional Decision-making: The Western Grid and State/Regional Committees

Discussion Topics

* Are there any additional processes that need to be overlaid to achieve broader regional views/goals, especially where one state comprises an RSC?

* Is it necessary to formalize a structure to address such western issues as transmission planning, access to market data for regulatory authorities, and market monitoring? If so, what are some possible vehicles for creating such a structure?

* How would recognition of an RSC be gained from FERC?

* How will a single-state RSC ensure regional infrastructure planning, *e.g.*, bridge the various regional processes such as STEP and Northwest Planning?

Panelists

Steve Greenleaf, California Independent System Operator
Gary Ackerman, Western Power Trading Forum
Don Garber, San Diego Gas & Electric Company
Barbara Hale, California Public Utilities Commission
Yakout Mansour, British Columbia Transmission Co.
Sunne Wright McPeak, California Power Authority
4:30–5 p.m.—Discussion of Next Steps

[FR Doc. E3–00158 Filed 11–3–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7583–2]

Request for Applications, Ecology and Oceanography of Harmful Algal Blooms Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of financial assistance for project assistance.

SUMMARY: The purpose of this notice is to advise the public that the participating agencies are soliciting individual research proposals of up to 3 years duration, and depending on appropriations, multi-disciplinary regional studies of 3 to 5 years duration for the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) program. This program provides support for research on algal species whose populations may cause or result in deleterious effects on ecosystems and human health. Studies of the causes of such blooms, their detection, effects, mitigation, and control in U.S. coastal waters (including estuaries and Great Lakes) are solicited. This document details the requirements for applications for research support that will be considered by the Federal research partnership. The complete program announcement can be accessed on the Internet at *http://es.epa.gov/ncer/rfa/* under ''Science To Achieve Results (STAR) Research Grants''.

DATES: The deadline for applications is January 28, 2004 by 4 EST.

ADDRESSES: Submit the original and eighteen copies of your proposal to the Coastal Ocean Program Office, N/SCI2, SSMC#4, 8th Floor, Room 8243, 1305 East-West Highway, Silver Spring, MD 20910. The required forms for applications with instructions are accessible on the Internet at *http://es.epa.gov/ncerqa/rfa/forms/downlf.html.* Forms may be printed from this site.

Awards: Final selection of awardees by the participating agencies will be determined on the basis of peer and panel recommendations, applicability of the proposed effort to the interests of an agency, and the availability of funds. It is anticipated that each award will be made and be administered by a single agency; however, in the case of multi-institutional projects, two or more agencies may provide assistance. In the latter case, each agency may provide funding for an individual project component and/or institution. Applications recommended for funding will require additional certifications, possibly a revised budget, responses to any comments or suggestions offered by the reviewers, and an electronic version of the revised project abstract. Awards will be subject to the terms and conditions of the sponsoring agency.

FOR FURTHER INFORMATION CONTACT: Technical Information: Quay Dortch, ECOHAB Coordinator, CSCOR/COP Office, 301–713–3338/ext 157, e-mail: *quay.dortch@noaa.gov.* Administrative Information: Gina Perovich, EPA/NCER, 202–564–2248, e-mail: *perovich.gina@epa.gov.*

SUPPLEMENTARY INFORMATION:

Program Goals and Topic Areas

The National Center for Environmental Research/Environmental Protection Agency (EPA); the Coastal Ocean Program and the Office of Protected Resources/National Oceanic and Atmospheric Administration

(NOAA)/Department of Commerce; the Directorate for Geosciences, Division of Ocean Sciences/National Science Foundation (NSF); the Office of Naval Research (ONR)/Department of Defense; and the Office of Earth Science/National Aeronautics Space Administration (NASA) are cooperating in an opportunity for investigators to propose activities to address fundamental ecological and oceanographic questions related to the national harmful algal bloom (HAB) problem.

This announcement provides an opportunity for investigators to propose activities that address areas in the national problem of harmful algal blooms. The primary goal of this interagency program is to provide support for projects that are part of an integrated national effort to address HAB problems. Thus, ECOHAB will consider support for projects ranging from relatively small targeted laboratory or field studies by individual investigators or small teams, to regional studies involving larger teams of investigators conducting coordinated, well-integrated multi-disciplinary field programs.

All studies should address fundamental ecological and oceanographic questions related to HABs. Additionally, larger, regionally focused studies should attempt to determine the linkages between HAB species and their surrounding environments. Modeling efforts should be an integral part of these larger studies and these applications should also identify potential user communities for models and results. Investigators are encouraged to list specific management needs identified in the regional community, document the management sources, and also document how research results will meet those needs.

ECOHAB agencies will consider a wide range of studies for support. Examples of topic areas for proposed projects are provided in the complete announcement (see the **SUMMARY** in this announcement).

ECOHAB will support projects ranging from laboratory studies by individual investigators or small teams, up to larger teams of investigators conducting coordinated, well-integrated, multi-disciplinary regional field studies or cross-regional comparative studies. For individuals and small teams, support may be requested for 1–3 years duration. Projects focused on multi-disciplinary regional studies may request support for 3 to 5 years duration. However, the size and duration of the latter studies are dependent on appropriations, and potential applicants must obtain permission from the ECOHAB Coordinator (see CONTACTS in this announcement) to submit a regional or cross-regional study.

Eligibility: Institutions of higher education and not-for-profit institutions located in the U.S., and State or local governments, are eligible under all existing authorizations. Some participating agencies are authorized to make awards to international institutions, and commercial organizations located in the U.S. Federal agencies and laboratories are eligible if they can produce certifications or documentation which clearly show that they have specific legal authority to receive funds from another Federal agency in excess of their appropriations. Funding for salaries of full time Federal employees will not be allowed. Applications from non-Federal and Federal applicants will be evaluated under the same review/selection process. Proposals from non-Federal applicants that are selected for funding will be funded through a project grant or cooperative agreement under the terms of this announcement. Proposals from Federal agencies or laboratories deemed acceptable and selected for funding will be funded through a medium other than a grant or cooperative agreement, such as inter- or intra-agency transfers, where legal authority exists for such funding. Note that this announcement is not proposing to procure goods and services from Federal applicants; therefore the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

How to Apply: The original and eighteen (18) copies of the fully developed application (19 in all) and one (1) additional copy of the abstract, prepared in accordance with the full announcement, must be received by NOAA no later than 4 p.m. Eastern Time on the closing date, January 28, 2004.

Program Authorities: For COP: 33 U.S.C. 883d and Pub. L. 105–383; for Office of Protected Resources/NOAA: 16 U.S.C. 1382 and 16 U.S.C. 1421a; EPA: 33 U.S.C 1251 *et seq.* and 40 CFR parts 30 and 40; for NSF: 42 U.S.C. 1861 *et seq.;* for ONR: 10 U.S.C 2358 as amended and 31 U.S.C 6304; and for NASA: 14 CFR part 1260.

Catalog of Federal Domestic Assistance (CFDA) Numbers. 11.478 for the Coastal Ocean Program; 11.472 for NOAA/Office of Protected Resources; 66.509 for the Environmental Protection Agency; 47.050 for the National Science Foundation, and 12.300 for the Office of Naval Research.

Dated: October 27, 2003.

John C. Puzak,

Acting Director, National Center for Environmental Research .

[FR Doc. 03–27674 Filed 11–3–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7582–9]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act Regarding the Global Landfill Superfund Site, Middlesex County, NJ

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and opportunity for public comment.

SUMMARY: The United States Environmental Protection (EPA) is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The administrative settlement is intended to resolve the United States' claims for past response costs against the following potentially responsible parties (''PRPs''): Browning-Ferris Industries, Inc.; Chevron Chemical Company; Consolidated Edison Company of New York; E.I. Dupont de Nemours & Co.; FMC Corporation; Jersey Central Power & Light Company d/b/a GPU Energy; Gerdau AmeriSteel-Perth Amboy Mill f/k/a Co-Steel Raritan, f/k/a River Steel Company; Shell Oil Company; Johnson & Johnson; and Merck & Co., Inc. (collectively, ''Settling Parties''). The administrative settlement concerns the Global Landfill Superfund Site located in Middlesex County, New Jersey.

In accordance with section 122(h)(i)(1) of CERCLA, notice is hereby given of a proposed administrative settlement concerning the Global Landfill Superfund Site located in Middlesex County, New Jersey. Section 122(h) of CERCLA provides EPA with the authority to consider, compromise and settle certain claims for costs incurred by the United States.

Pursuant to the administrative settlement, the Settling Parties will pay the U.S. Environmental Protection Agency $474,000 as reimbursement of past response costs incurred by EPA in

connection with the Site. Past response costs are defined as response costs incurred by EPA on or prior to May 19, 2001.

EPA will consider any comments received during the comment period and may withdraw or withhold consent to the proposed settlement if comments disclose facts or considerations that indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th floor, New York, New York 10007–1866. Telephone: (212) 637–3111.

DATES: Comments must be provided by December 4, 2003.

ADDRESSES: Comments should be sent to the U.S. Environmental Protection Agency, Office, of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007 and should refer to: In the Matter of the Global Landfill Superfund Site, U.S. EPA Index No. II CERCLA–02–2003–2021.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007, (212) 637–3111.

SUPPLEMENTARY INFORMATION: A copy of the proposed administrative settlement, as well as background information relating to the settlement, may be obtained in person or by mail from Juan Fajardo, U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007. Telephone: (212) 637–3132.

Dated: October 17, 2003.

George Pavlou,

Director, Emergency & Remedial Response Division, Region 2.

[FR Doc. 03–27673 Filed 11–3–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7582–7]

Proposed CERCLA Administrative Cost Recovery Settlement; Pellestar Site, Negaunee, MI

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement which includes compromise of past response costs incurred in connection with the Pellestar site in Negaunee, Michigan with the following settling parties: Carpenter Technology Corporation; Cleveland Cliffs Iron Company; General Motors Corporation; Howmet Corporation; Ispat Inland Inc.; Technology Development Corporation and its subsidiaries, including Pellet Technology Corporation; and TRW Vehicle Safety Systems, Inc. The settlement requires the settling parties to perform a removal action at the site and reimburse U.S. EPA for its costs incurred after April 1, 2003 to the Hazardous Substance Superfund. Past costs (U.S. EPA costs incurred prior to April 1, 2003) in the amount of $118,328 are being compromised in consideration of the settling parties' commitment to perform the removal and pay all costs after April 1, 2003. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the site record repository in the Negaunee Public Library, 319 W. Case in Negaunee, Michigan, and at the U.S. EPA Record Center, Room 714, U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois.

DATES: Comments must be submitted to U.S. EPA on or before December 4, 2003.

ADDRESSES: The proposed settlement is available for public inspection at the U.S. EPA Record Center, Room 714, 77 West Jackson Boulevard, Chicago, Illinois. A copy of the proposed settlement may be obtained from U.S. EPA Record Center, Room 714, U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois or by calling tel. # (312)–353–5821. Comments should reference the Pellestar site in Negaunee, Michigan and EPA Docket No. V–W–04–C–761 and should be addressed to Mr. Jerome Kujawa, U.S. EPA Office of Regional Counsel (C–14J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome Kujawa, U.S. EPA Office of Regional Counsel (C–14J) at 77 West Jackson Boulevard Chicago, IL 60604 or at tel. # (312) –886–6731.

Dated: October 22, 2003.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 03–27676 Filed 11–3–03; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 17, 2003.

A. Federal Reserve Bank of Minneapolis (Richard M. Todd, Vice President and Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Michael Dennis Watters, Lakeville, Minnesota, to gain control of Provincial Corp., Lakeville, Minnesota, and thereby indirectly gain control of Provincial Bank, Lakeville, Minnesota.

Board of Governors of the Federal Reserve System, October 29, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–27620 Filed 11–3–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or

bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 28, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Farmers Bancorp, Inc., Lynchburg, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers Bank of Lynchburg, Lynchburg, Tennessee.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. MSB Holding, Inc., Montrose, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of The Montrose State Bank, Montrose, Michigan.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. City Bancshares, Inc., Corsicana, Texas, and City Bancshares of Delaware, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of City National Bank, Corsicana, Texas.

Board of Governors of the Federal Reserve System, October 29, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–27618 Filed 11–3–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 2003.

A. Federal Reserve Bank of New York (Jay Bernstein, Bank Supervision Officer) 33 Liberty Street, New York, New York 10045-0001:

1. United Overseas Bank Limited, New York, New York; to engage *de novo* through its subsidiary, UOB Global Equity Sales LLC, New York, New York, in private placement services, pursuant to section 225.28(b)(7)(iii) of Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. City Bancorp, Springfield, Missouri; to acquire 25 percent of the voting shares of Mobius Technology Consulting Group, LLC, and thereby engage in management consulting activities and data processing activities pursuant to section 225.28 (b)(9)(i)(A) and (b)(14)(i) of Regulation Y.

2. Home Bancshares, Inc., Conway, Arkansas; TCBancorp, Inc., North Little Rock, Arkansas; CB Bancorp Inc., Conway, Arkansas; to acquire Community Financial Group, Inc., Cabot, Arkansas, and its subsidiary, Community Financial Solutions, Cabot, Arkansas, and thereby engage in brokerage service activities, pursuant to section 225.28(b)(7)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.03–27617 Filed 11–3–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 2003.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. City Bancorp, Springfield, Missouri; to acquire 25 percent of the voting shares of Mobius Technology Consulting Group, LLC, and thereby engage in management consulting activities and data processing activities pursuant to section 225.28 (b)(9)(i)(A) and (b)(14)(i) of Regulation Y.

2. Home Bancshares, Inc., Conway, Arkansas; TCBancorp, Inc., North Little Rock, Arkansas; CB Bancorp Inc., Conway, Arkansas; to acquire Community Financial Group, Inc., Cabot, Arkansas, and its subsidiary, Community Financial Solutions, Cabot, Arkansas, and thereby engage in brokerage service activities, pursuant to section 225.28(b)(7)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.03–27619 Filed 11–3–03; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Submission for OMB Review; Comment Request; State Program Report for Title III of the Older Americans Act

AGENCY: Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by December 4, 2003.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St., NW., rm. 10235, Washington, DC 20503, Attn: Brenda Aguilar, Desk Officer for AoA.

FOR FURTHER INFORMATION CONTACT: Saadia Greenberg, Office of Evaluation, Administration on Aging, Room 5607, Washington, DC 20201, (202) 357–3554.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, AoA has submitted the following proposed collection of information to OMB for review and clearance.

State Program Reports provide state totals of the number of persons served for each type of service under the Older Americans Act Title III and Title VII programs as well as the number units of services provided and some characteristics of the clients. Information is also reported on expenditures for each type of service, staffing levels of state and area agencies on aging.

The information collection is an annual requirement for the 56 respondents. These respondents include the State and Territorial Units on Aging comprised of the 50 States, the District of Columbia, the U.S. Virgin Islands, Puerto Rico, and the U.S. territories. The AoA estimates that a state of average size and complexity will need to commit 2,228 hours to prepare a full report.

In the **Federal Register** of June 2, 2003 (Vol. 68, No. 105), the agency requested comments on the proposed revised collection of information. The comments received were analyzed and have been incorporated wherever possible into this submission. As a result, we have reduced the reporting burden considerably. We are now seeking approval for this revision of the State Program Reports.

Dated: October 30, 2003.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 03–27658 Filed 11–3–03; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–72, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 58 FR 53381–53383, dated September 10, 2003) is amended to reflect the transfer of the Division of AIDS, STD, and TB Laboratory Research from the National Center for Infectious Diseases to the National Center for HIV, STD, and TB Prevention, excluding the Hematologic Diseases Branch. The Hematologic Diseases Branch will be transferred to the National Center on Birth Defects and Developmental Disabilities and will be established as the Division of Hereditary Blood Disorders.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the mission statement for the *National Center on Birth Defects and Developmental Disabilities (CF)* and insert the following:

The mission of the National Center on Birth Defects and Developmental Disabilities (NCBDDD) is to improve the health of children and adults by preventing birth defects and developmental disabilities, and complications of heredity blood disorders; promoting optimal child development, and the health and wellness among children and adults living with disabilities. In carrying out this mission, this organization: (1) Conducts public health research, epidemiological investigations, and program demonstrations directed toward preventing birth defects and developmental disabilities, and complications of hereditary blood disorders, optimal fetal, infant, and child development, and promoting the health and wellness of people with disabilities, including the prevention of secondary conditions; (2) plans, develops, establishes, and maintains systems of surveillance and monitoring the population of these conditions; (3) operates regional centers for the conduct of applied epidemiological research on these conditions; (4) provides information and education to health care providers, public health professionals, and the public on these conditions; (5) provides technical assistance, consultation capacity building through technology transfer, grants, cooperative agreements, contracts, and other means to State, local, international, and nonprofit organizations to prevent and control these conditions; (6) provides training in the epidemiology of these conditions for health professionals within and outside the United States; (7) translates scientific findings into intervention, prevention, and health promotion strategies; (8) conducts evaluation of programs to determine effectiveness; (9) coordinates activities with other CDC organizations and Federal and non-Federal health agencies, as appropriate.

Delete in its entirety the functional statement for the *Office of the Director (CF1)* and insert the following:

(1) Directs, manages, and coordinates the activities of the National Center on Birth Defects and Developmental Disabilities (NCBDDD); (2) develops goals and objectives, provides leadership, policy formulation, scientific oversight, and guidance in program planning and development; (3) coordinates NCBDDD program activities with other CDC components, Federal agencies, international organizations, State and local health agencies, business and industry, voluntary organizations, and community-based organizations; (4)

coordinates technical assistance to states, other nations and international organizations; (5) coordinates with medical, scientific, and other professional organizations interested in birth defects prevention, pediatric genetics, developmental disabilities prevention, and disabilities and health, and prevention of complications of hereditary blood disorders; (6) advises the Director, CDC, on policy matters concerning NCBDDD activities.

After the functional statement for the *Division of Human Development and Disability (CF3)*, insert the following:

Division of Hereditary Blood Disorders (CF4). (1) Designs and manages a surveillance system to evaluate the incidence, morbidity, and mortality of hemophilia, blood diseases and other hereditary disorders; (2) plans, develops, and coordinates special surveys and populations studies in selected geographic areas to monitor and assess the complications of chronic blood diseases and chronic hereditary disorders; (3) collects, analyzes, and prepares reports to document the prevalence and incidence of blood diseases and chronic hereditary disorders in the United States and provides this information to the scientific community through reports, publications, and public access data sets; (4) designs and implements studies using the surveillance data to identify risk factors for the complication of blood diseases and chronic heredity disorders, and evaluate the effectiveness of the prevention activities; (5) conducts applied and operational research related to disease definition, etiology, diagnosis, complications, and prevention of blood diseases and chronic hereditary disorders; (6) conducts epidemiologic studies in persons and their families with blood diseases and chronic hereditary disorders; (7) plans, develops, and coordinates special surveys and populations studies in selected geographic areas to monitor and assess the complications of blood diseases and chronic hereditary disorders; (8) provides epidemiologic and medical consultation and technical assistance, including epidemic aids, to State and local health departments, other governmental agencies, and other public and private organizations in the investigation of blood diseases and chronic hereditary disorders; (9) designs and implements studies to evaluate the effectiveness of implemented prevention strategies in the prevention centers; (10) conducts applied research to develop, evaluate, improve, and standardize the methods and procedures used for the classification, surveillance, and prevention of blood diseases and chronic hereditary disorders; (11) participates in research on the prevention of the chronic complications of blood diseases and hereditary disorders; (12) provides diagnostic support for epidemiologic studies and epidemic aids on emerging blood diseases and chronic hereditary disorders; (13) determines the mechanisms of pathogenesis and complications of blood diseases and chronic hereditary disorders; (14) conducts research and provides reference services on diagnostic techniques for blood diseases and other hereditary disorders; (15) maintains the national reference laboratory for blood diseases and chronic hereditary disorders; (16) conducts research to improve laboratory methodologies and materials.

Office of the Director (CF41). (1) Provides national leadership in the investigation and prevention of diseases of blood and chronic hereditary disorders, including hemophilia, leading to disabilities; (2) oversees investigations of diseases of blood and chronic hereditary disorders and the role of etiologic agents in the development of these disorders; (3) coordinates applied and operational research related to disease definition, etiology, diagnosis, complication and prevention of blood diseases and chronic hereditary disorders, consultation and technical assistance to State and local health departments, other governmental entities, and other public and private organizations in the investigation of blood diseases and chronic hereditary disorders; (4) provides training services to states, localities, and other countries in investigation, diagnosis, prevention, and control of blood diseases and chronic hereditary disorders; (5) assists in designing, implementing, and evaluating prevention and counseling programs for persons and their families with chronic blood diseases and selected chronic hereditary disorders; (6) designs, implements and coordinates the prevention and surveillance activities of specialized federally funded prevention centers organized to prevent the complications of blood diseases and chronic hereditary disorders; (7) designs, implements and coordinates prevention activities of community based lay groups so that the activities reinforce and compliment the activities of the prevention centers; (8) participates in evaluation studies of the effectiveness of prevention activities; (9) incorporates the findings of the laboratory epidemiology and surveillance teams into prevention activities; and (10) works closely with CDC organizations in applying prevalence and incidence data to target and evaluate programs to prevent the complications of blood diseases and chronic hereditary disorders.

Delete the mission statement for the *National Center for HIV, STD, and TB Prevention (CK)* and insert the following:

The mission of this organization is to provide leadership in preventing and controlling human immunodeficiency virus infection, other sexually transmitted diseases (STDs), and tuberculosis (TB) by collaborating with community, state, national, and international partners and applying well integrated, multi-disciplinary programs of research, surveillance, technical assistance, and evaluation. In carrying out this mission, the National Center for HIV, STD, and TB Prevention (NCHSTP): (1) Coordinates the development of CDC short- and long-range plans for preventing the spread of HIV infection in the United States; (2) allocates and tracks CDC resources for HIV prevention programs; (3) conducts national public information and awareness activities; (4) coordinates HIV prevention activities with other Federal agencies and with international organizations, including the World Health Organization in conjunction with the Director, Office of Global Health; (5) plans, directs, and coordinates national programs of assistance involving preventive health services to State and local health agencies; (6) assists State and local health agencies in integrating and coordinating preventive services delivered by private and public organizations in the community and in assuring delivery of preventive services to all persons regardless of socioeconomic status; (7) assists states and localities in specifying major health problems in the community and in formulating technical theories on which intervention strategies can be based; (8) serves as the primary focus for assisting states and localities through grants and other mechanisms, in establishing and maintaining prevention and control programs directed toward health problems related to acquired immunodeficiency syndrome, sexually transmitted diseases, and tuberculosis; (9) maintains operational knowledge of the nature, scope, and occurrence of preventable health problems; (10) conducts operational research to improve the assistance programs; (11) conducts applied and operational research relating to the distribution, diagnosis, prevention, and control of HIV and other STDs, TB, non-TB

mycobacteria, and non-HIV Retroviruses, including vaccine development; (12) provides reference diagnostic services for HIV and other STDs, TB, non-TB mycobacteria, and non-HIV Retroviruses; (13) provides technical assistance to states and localities and to other nations in the investigation and diagnosis of STDs, TB, HIV, and Retroviruses; (14) assesses program operations and public health practices and provides technical assistance to states in the operation of preventive health service programs; (15) maintains liaison with other U.S. governmental agencies, State and local health agencies, national organizations, and educational institutions; (16) provides technical assistance to other nations; (17) in carrying out the above functions, collaborates, as appropriate, with other Centers, Institute, and Offices (CIOs) of the CDC.

Delete the functional statement for the *Office of the Director (CK1)* and insert the following:

(1) Provides leadership and guidance on the development of goals and objectives, policies, program planning and development, program management and operations of the activities of the NCHSTP; (2) manages, directs, coordinates, and evaluates the Center's activities; (3) facilitates closer linkages between HIV, STD, and TB surveillance activities and prevention programs at all levels, (4) facilitates collaboration, integration, and multi-disciplinary approaches to enhance the effectiveness of HIV, STD, and TB prevention programs; (5) facilitates integration of science and prevention programs throughout the NCHSTP; (6) enhances the coordination and integration of HIV, STD, and TB prevention services for individuals and populations at increased risk for more than one of these infections; (7) coordinates the integration of CDC funding of state and local health departments for HIV, STD, and TB prevention; (8) facilitates the assignment of field staff in accordance with CDC and NCHSTP priorities and objectives; (9) reassesses the role of NCHSTP field staff assignees to state and local health jurisdictions and restructures career development plans accordingly; (10) provides and coordinates administrative and program support services; (11) provides technical information services to facilitate dissemination of relevant public health information; (12) facilitates collaboration with national health activities with CDC components, other agencies and organizations, and foreign governments on international health activities; (13) provides oversight for the programmatic coordination of HIV, STD, and TB activities between NCHSTP and other CIOs and, as the lead CIO for these programs, develops recommendations to the CDC Director in concert with other CIOs, for distribution of HIV, STD, and TB funds CDC-wide; (14) advises the Director, CDC, on other policy matters concerning NCHSTP activities.

After the functional statement for the *Global AIDS Program (CK6)*, insert the following:

Division of AIDS, STD, and TB Laboratory Research (CK7). (1) Develops and evaluates laboratory methods and procedures for the diagnosis and characterization of infections caused by human immunodeficiency virus (HIV) and other retroviruses, other sexually transmitted diseases (STDs), and mycobacteria including *Mycobacterium tuberculosis*; (2) provides laboratory support for the surveillance, epidemiologic, clinical, and prevention activities of the Center; (3) conducts applied research on the pathogneesis of, and the immune mechanisms that occur in, microbial infections; (4) provides reference laboratory services and assists in standardizing and providing laboratory reagents; (5) serves as a World Health Organization Collaborating Center for Reference and Research in Syphilis Serology and for HIV isolation, detection, and characterization; and (6) coordinates research on opportunistic infections occurring in HIV-infected persons.

Office of the Director (CK71). (1) Plans, directs, and coordinates the activities of the Division; (2) develops goals and objectives and provides leadership, policy formulation, and guidance in program planning and development; (3) provides program management and administrative support services for AIDS/STD/TB laboratory research activities, both domestic and international.

HIV and Retrovirology Branch (CK72). (1) Conducts studies of human immunodeficiency viruses (HIVs) and other human and zoonotic retroviruses, including the diseases they cause, their modes of transmission, and the means for their control through virus detection, isolation, and characterization by virologic, molecular, and cellular biologic methods; (2) collaborates with NCHSTP investigators to conduct HIV epidemiologic and surveillance studies worldwide particularly as they pertain to prevention and intervention strategies; (3) identifies and characterizes new HIV isolates and develops new screening tests for these isolates to determine their prevalence in various populations; (4) determines genotypic and phenotypic variations of HIVs that may affect pathogenesis, drug resistance, persistence, virulence, and transmissibility; (5) conducts and supports field epidemiologic investigations of the prevalence, distribution, trends, and risk factors associated with non-AIDS retroviral infections and associated diseases; (6) serves as a World Health Organization (WHO) Reference Center and as a member of the UNAIDS Virus Network to provide international consultation and technical assistance on laboratory procedures for HIV isolation, detection, and characterization; (7) develops and evaluates procedures for the isolation and characterization of HIV and for the detection of retroviral DNA or RNA from clinical samples; (8) provides training, reference testing, and reference reagents for virologic and molecular characterization of divergent HIVs for public health laboratories in the United States and WHO; (9) serves as a reference laboratory for the isolation of zoonotic retroviruses from clinical samples; (10) develops collaborations with other CDC and non-CDC scientists to promote scientific progress and accomplishments; and (11) collaborates with industry to promote commercialization of useful technology, methodologies, or reagents of public health importance.

HIV Immunology and Diagnostics Branch (CK73). (1) Conducts basic and applied studies of microbial-host interactions that occur in infections, particularly infection with human immunodeficiency virus (HIV); (2) conducts basic and applied investigations of the immune cell interactions that occur in HIV infection as well as in related immunologic/infectious diseases; conducts investigations of genetic traits of the host that influence the susceptibility, disease course, and immune response to infectious disease, particularly HIV disease; (3) conducts studies related to the development, evaluation, improvement, and standardization of laboratory technologies used for the diagnosis, surveillance, and monitoring of HIV infection both independently and in collaboration with the biotechnology industry; (4) performs HIV antigen and antibody testing plus related standardized assays in support of the diagnostic /surveillance/epidemiologic requirements of CDC-based and CDC-affiliated studies of the HIV epidemic; (5) serves as a reference laboratory for State and local health departments; and (6) provides diagnostic services to other Federal agencies, the World Health Organization, CDC-affiliated academic centers, CDC-affiliated studies with

other countries, and community organizations, as appropriate.

Sexually Transmitted Infections Branch (CK74). (1) Performs research on the pathogenesis, genetics, and immunology of syphilis and other treponematoses, gonococcal and chlamydial infections, chancroid, genital herpes, donovanosis, bacterial vaginosis and trichomoniasis; (2) conducts and participates in clinical, field, and laboratory research to develop, evaluate, and improve laboratory methods used in the diagnosis and epidemiology of these sexually transmitted infections (STIs); (3) provides consultation and reference/diagnostic services for these STIs; (4) conducts laboratory-based surveillance for and research on the genetics of antimicrobial resistance in Neisseria gonorrhoeae; (5) serves as the WHO International Collaborating Center for Reference and Research in Syphilis Serology; and (6) provides consultation and laboratory support for international activities.

Tuberculosis/Mycobacteriology Branch (CK75). (1) Provides laboratory support for epidemic investigations, surveillance activities, and special studies of tuberculosis and other mycobacteria-caused diseases; (2) administers contracts to provide *Mycobacterium tuberculosis* genotyping, maintains a national database of genotypes, and conducts operational research to implement genotyping; (3) develops and evaluates new methods to subtype mycobacteria for epidemiologic studies; (4) serves as primary CDC focus for diagnostic mycobacteriology laboratory services and for laboratory aspects of nontuberculosis Mycobacterium species and of Hansen disease (leprosy); (5) administers grants and cooperative agreements with states and others to upgrade laboratory activities and provide special services; (6) provides reference diagnostic services, consultation, technical assistance, and training to State, Federal, and municipal public health laboratories; (7) provides laboratory support, reference services, assessment, consultation, and training for CDC's international tuberculosis activities; (8) develops, evaluates, or improves conventional and molecular methods for the detection, classification, identification, characterization, and susceptibility testing of mycobacteria and mycobacteria-caused diseases; (9) conducts studies to define the role of bacterial virulence factors, host factors, and pathogenic and immunologic mechanisms in disease processes and protective immunity and develops, evaluates, and improves immunologic methods for the diagnosis and prevention of mycobacteria-caused diseases; (10) develops tissue culture and animal models of mycobacteria-caused diseases and conducts studies on chemotherapy, immunotherapy, pathogenesis, pathology, and vaccines for mycobacteria-caused diseases; (11) conducts studies on the isolation, taxonomy, and ecology of mycobacteria and develops tests to identify new species; (12) conducts and supports studies to characterize newly emerging pathogenic species of *Mycobacterium* and associated diseases.

Delete in their entirety the following titles and functional statements:

Division of AIDS, STD, and TB Laboratory Research (CRN)
Office of the Director (CRN1)
Hematologic Diseases Branch (CRN3)
Laboratory Section (CRN32)
Surveillance and Epidemiology Section (CRN33)
Tuberculosis/Mycobacteriology Branch (CRN8)
Diagnostic Mycobacteriology Section (CRN82)
Immunology and Molecular Pathogenesis Section (CRN83)
HIV and Retrovirology Branch (CRNA)
Viral Evolution and Transmission Section (CRNA2)
Retroviral Genetics Section (CRNA3)
Molecular Epidemiology and Zoonoses Section (CRNA4)
Virology Section (CRNA5)
HIV Immunology and Diagnostics Branch (CRNB)
Gonorrhea Research Branch (CRNC)
Syphilis and Chlamydia Branch (CRND)
Treponema Section (CRND2)
Chlamydia Section (CRND3)

Dated: October 20, 2003.

William H. Gimson,

Chief Operating Officer, Centers for Disease Control and Prevention (CDC).

[FR Doc. 03–27627 Filed 11–3–03; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Evaluation of Child Care Subsidy Strategies.

OMB No.: New collection.

Description: To conduct four experiments to test aspects of the child care subsidy system. This OMB submission will refer to the experiments in the first two sites: Illinois and Florida.

The State of Illinois has agreed to conduct two simultaneous experiments. The first will test the impact of receiving a child care subsidy on parental employment and income, and on the stability of child care arrangements; the second experiment will examine the impacts of losing a subsidy on the same set of outcomes. For the first experiments, families with incomes above the current income eligibility ceiling who apply for subsidies will be approved to receive subsidies. In the second experiments, families in the treatment group with incomes above the eligibility ceiling who apply to be recertified to continue using subsidies will remain eligible. In addition, each experiment will test the effects of a longer certification period by certifying eligibility for some families for six months and other families for one year. Families in the two treatment groups will retain eligibility for subsidies over the two-year study period, provided their income remains below the experimental limit and they comply with other requirements (*e.g.,* continue to work). Outcomes will be measured through administrative records and interviews with parents.

In Miami/Dade County Florida, the study is an experimental test of the effects of three early language and literacy curricula on the school-readiness of low-income and subsidized 4-year-old children in child care centers. Participating centers will be randomly assigned to one of three curricula or to a control group. All participating centers will receive a set of basic literacy materials for their classroom. Teachers in the curricula-centers will be trained on their given curricula. Outcomes will be measured through classroom observations and child assessments.

Respondents

Illinois: Parents who apply for subsidies and are eligible and agree to be in the study will be interviewed by telephone or in person up to three times in the 24 months after they enter the study.

Florida: Participating classrooms will be observed prior to the implementation of the curricula. Children will be assessed at the end of the school year.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Illinois parent survey	5000	3	.5	7500
Florida child assessments	Cohort 1: 1620	1	.3	486
	Cohort 2: 1620	2	.3	972

Estimated Total Annual Burden Hours: 8958.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *rsargis@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 28, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–27612 Filed 11–3–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Grants Application Data Summary, Administration for Native Americans, Envir. & Lang. Application Info.

OMB.: New Collection.

Description: These Grant Application Data Summary (GADS) forms allow information to be collected as part of a grant application. The GADS forms provide information used to prepare the legislatively mandated annual report to Congress on the status of American Indians, Native Alaskans, Native Hawaiians and Pacific Islander communities.

The purpose of these information collections is to collect information from applicants that the Administration for Native Americans can use for more accurate reporting to the Administration for Children and Families and to Congress on the status of American Indians, Native Alaskans, Native Hawaiians and Pacific Islander communities.

Respondents: Tribal Governments, Native Non-Profits, Tribal Colleges and Universities.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Grants Application Data Summary—Environmental	650	1	28	18,200
Grants Application Data Summary—Language	650	1	28	18,200

Estimated Total Annual Burden Hours: 36,400.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *rsargis@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 28, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–27613 Filed 11–3–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: ''Building Strong Families Demonstration and Evaluation.''

OMB No.: New Collection.

Description: Currently, the Administration for Children and Families, Department of Health and

Human Services, is conducting the project entitled ''Building Strong Families Demonstration and Evaluation.'' The purpose of the project is to determine whether well-designed interventions can help low-income, unwed parents who are interested in marriage, fulfill their aspirations for a healthy marriage and strong family. The project plan includes obtaining information from focus groups of low-income men and women who have had a child out-of-wedlock. Information from the focus groups will provide a better understanding of the needs and interests of these men and women and aid in the design of interventions that address those needs and interests. At a later stage, the project will assess the net impact of interventions with couples beginning round the time of the birth of their child.

Focus groups participants' input will be sought to help design programs to help interested couples strengthen their relationship, achieve a healthy marriage if that is the path they choose, and thus, enhance child and family well-being. It is expected that programs will be designed around two main components. First, the programs will provide instruction in the skills and knowledge that research has shown to be associated with increased quality and stability in relationships and marriage. This focus is the distinctive component of the Building Strong Families Demonstration and Evaluation. In addition, programs to be tested will help couples access other services that they may need to sustain a healthy relationship and marriage (*e.g.,* mental health services, employment services).

Respondents: The respondents for the Focus Group Protocols and information sheets are to be low-income, unmarried, expectant or recent parents and newly married couples with children who volunteer to participate. The attendance goal for each group is 8 to 12 people. Approximately 26 focus groups are expected to be convened for a total of 208 to 312 respondents.

Annual Burden Estimates:

TABLE 1.—ESTIMATES OF ANNUALIZED BURDEN HOURS

Data collection instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Focus Group Protocol	312	1	1.5	468.0
Information Sheet	312	1	0.1	31.2
Total			1.6	499.2

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *rsargis@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF, E-mail address: *lauren_wittenberg@omb.eop.gov.*

Dated: October 28, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–27614 Filed 11–3–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0497]

Draft Guidance for Industry on Pharmacogenomic Data Submissions; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Pharmacogenomic Data Submissions.'' The draft guidance provides recommendations to sponsors holding investigational new drug applications (INDs), new drug applications (NDAs), and biologics license applications (BLAs) on what pharmacogenomic data to submit to the agency during the drug development process, the format of submissions, and how the data will be used in regulatory decisionmaking. The draft guidance is intended to facilitate scientific progress in the area of pharmacogenomics, which should enable the FDA to use pharmacogenomic data in regulatory policies and decision making.

DATES: Submit written or electronic comments on the draft guidance by February 2, 2004. General comments on agency guidance documents are welcome at any time. Submit written or electronic comments on the collection of information by January 5, 2004.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance and on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the draft guidance and the collection of information to *http://www.fda.gov/dockets/ecomments.*

FOR FURTHER INFORMATION CONTACT: Lawrence Lesko, Center for Drug Evaluation and Research (HFD–850), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5690, or

Raj Puri, Center for Biologics Evaluation and Research (HFM–735),

Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0471.

SUPPLEMENTARY INFORMATION:

I. Background

Although the field of pharmacogenomics is in its infancy, the promise of pharmacogenomics lies in its potential to predict sources of interindividual variability in drug response (both efficacy and toxicity), thus allowing individualization of therapy to maximize effectiveness and minimize risk. Pharmaceutical sponsors have been reluctant to embark on programs of pharmacogenomic testing during the FDA-regulated phases of drug development, due to uncertainties in how FDA will react to the data being generated.

To facilitate scientific progress in the area of pharmacogenomics, FDA is announcing the availability of a draft guidance for industry entitled ''Pharmacogenomic Data Submissions.'' The draft guidance provides recommendations to sponsors holding INDs, NDAs, and BLAs on what pharmacogenomic data to submit to the agency during the drug development process, the format of submissions, and how the data will be used in regulatory decisionmaking. The draft guidance is also intended to faciliate the agency's use of such data during regulatory decisionmaking.

Sponsors submitting or holding INDs, NDAs, or BLAs are subject to FDA requirements for submitting to the agency data relevant to drug safety and efficacy (§§ 312.22, 312.23, 312.31, 312.33, 314.50, 314.81, 601.2, and 601.12 (21 CFR 312.22, 312.23, 312.31, 312.33, 314.50, 314.81, 601.2, and 601.12)). These regulations were developed before the advent of widespread animal or human genetic or gene expression testing. FDA has received numerous inquiries about how sponsors who are conducting such testing can comply with the regulations. From a public policy perspective, a number of factors should be considered when interpreting how these regulations should apply to the developing field of pharmacogenomics. This draft guidance discusses these factors as well as the content and possible formats for submitting pharmacogenomic data to the agency in INDs, NDAs, and BLAs and how FDA expects to use the data in regulatory decisionmaking.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (44 U.S.C. 3501–3520) (the PRA), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Draft Guidance for Industry on Pharmacogenomic Data Submissions.

Description: The draft guidance provides recommendations to sponsors submitting or holding INDs, NDAs, or BLAs on what pharmacogenomic data should be submitted to the agency during the drug development process. Sponsors holding and applicants submitting INDs, NDAs, or BLAs are subject to FDA requirements for submitting to the agency data relevant to drug safety and efficacy (§§ 312.22, 312.23, 312.31, 312.33, 314.50, 314.81, 601.2, and 601.12).

Description of Respondents: Sponsors submitting or holding INDs, NDAs, and BLAs for human drugs and biologics.

Burden Estimate: The draft guidance interprets FDA regulations for IND, NDA, or BLA submissions, clarifying when the regulations require pharmacogenomics data to be submitted and when the submission of such data is voluntary. The pharmacogenomic data submissions described in the draft guidance that are required to be submitted to an IND, NDA, BLA, or annual report are covered by the information collection requirements under parts 312, 314, and 601 (21 CFR parts 312, 314, and 601) and are approved by OMB under control numbers 0910–0014 (part 312—INDs; approved until January 1, 2006); 0910–0001 (part 314—NDAs and annual reports; approved until March 31, 2005); and 0910–0338 (approved until August 31, 2005).

The draft guidance distinguishes between pharmacogenomic tests that may be considered valid biomarkers appropriate for regulatory decisionmaking, and other, less well developed exploratory tests. The submission of exploratory pharmacogenomic data is not required under the regulations, although the agency encourages the voluntary submission of such data.

The draft guidance describes the Voluntary Genomic Data Submission (VGDS) that can be used for such a voluntary submission. The draft guidance does not recommend a specific format for the VGDS, except that such a voluntary submission be designated a VGDS. The data submitted in a VGDS and the level of detail should be sufficient for FDA to be able to interpret the information and independently analyze the data, verify results, and explore possible genotype-phenotype correlations across studies. FDA does not want the VGDS to be overly burdensome and time-consuming for the sponsor.

FDA is requesting public comments on the following estimates of the burden of preparing a voluntary submission described in the draft guidance that should be designated as a VGDS. Based on FDA's familiarity with sponsors' interest in submitting pharmacogenomic data during the drug development process, FDA estimates that approximately 20 sponsors will submit approximately 80 VGDSs and that, on average, each VGDS will take approximately 10 hours to prepare and submit to FDA.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Genomic Data Submissions	20	4	80	10	800

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance document at *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/guidelines.htm*, or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: October 28, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–27646 Filed 11–3–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, Clinical Topic: U10, R21, R03, Data, R01, K23s".

Date: November 10, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Old Town Alexandria, 901 Fairfax Street, Alexandria, VA 22314.

Contact Person: Jeanette M Hosseini, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, (301) 451–2020.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27710 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, Retinal Clinical Applications Section II.

Date: December 3, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Crystal City, 2399 Jefferson Davis Hwy, Arlington, VA 22202.

Contact Person: Jeanette M Hosseini, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, (301) 451–2020.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27711 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Predoctoral Research Training Grant.

Date: November 4–5, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Laura K. Moen, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12, Bethesda, MD 20892, 301–594–3998, *moenl@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27702 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Statistics for Clinical Applications.

Date: November 18, 2003.

Time: 9:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Mark Czarnolewski, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mczarnol@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Caregiver Assessment.

Date: November 18, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Mark Czarnolewski, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mczarnol@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27703 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Minority Programs Review Committee, MBRS Review Subcommittee B.

Date: November 17–18, 2003.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Shiva P. Singh, PhD, Office of Scientific Review National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12C, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27704 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Initial Review Group, Biomedical Research and Research Training Review Subcommittee B.

Date: November 5–6, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Arthur L. Zachary, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–18, Bethesda, MD 20892, (301) 594–2886, *zacharya@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27705 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, NIMH M–RISPS (R24).

Date: November 13–14, 2003.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Benjamin Xu, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6143, MSC 9608, Bethesda, MD 20892–9608, 301–443–1178, *benxu1@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27706 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Alcohol Education Project Grants (R25).

Date: November 24, 2003.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Wilco Building, 6000 Executive Boulevard, Room 411, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeffrey I. Toward, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Extramural Project Review Branch, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, (301) 435–5337.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27707 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Minority Training.

Date: November 10, 2003.

Time: 1 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd, Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Ancillary studies to the STAR*D Project-Depression Treatment Variability.

Date: November 17, 2003.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Houmam H. Araj, PhD, Scientific review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340, *haraj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27708 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the PubMed Central National Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: PubMed Central National Advisory Committee.

Date: December 2, 2003.

Time: 9:30 a.m. to 4 p.m.

Agenda: Review and Analysis of Systems.

Place: National Library of Medicine, Building 38, 2nd Floor Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: David J. Lipman, MD, Director, Natl Ctr for Biotechnology Information, National Library of Medicine, Department of Health and Human Services, Bethesda, MD 20894.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://www.pubmedcentral.nih.gov/about/nac/html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27701 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Respiratory Physiology Study Section, November 3, 2003, 8:30 a.m. to November 4, 2003, 5 p.m., Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036 which was published in the **Federal Register** on October 27, 2003, 68 FR 61223–61225.

The meeting will be held at the Washington Terrace Hotel, 1515 Rhode Island Avenue, Washington, DC 20005. The meeting dates and time remain the same. The meeting is closed to the public.

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27700 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, BSPH Overflow.

Date: November 6, 2003.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Terrace Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Theresa M. Montini, BA, MSW, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775, *montini@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitation imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: November 6–7, 2003.

Time: 1 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Terrace Hotel 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Theresa M. Montini, MSW, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220; MSC 7852, Bethesda, MD 20892–7852, (301) 435–1775, *montini@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitation simposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ALTX–4 Member Conflicts.

Date: November 10, 2003.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Najma Begum, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, 301–435–1243, *begumn@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitation imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, CLHP 2 Member Applications.

Date: November 10, 2003.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yvette M. Davis, VMD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–0906.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biobehavioral Mechanisms of Stress and Psychoneuroimmunology.

Date: November 10, 2003.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *roberlu@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Structure Biology of AML.

Date: November 10, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Delia Tang, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–2506, *tangd@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 CDP 02M: Giloma.

Date: November 10, 2003.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Neal B. West, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7804, Bethesda, MD 20892–7808, (301) 435–2633, *westnea@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ALTX–4 Member Conflicts.

Date: November 11, 2003.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Najma Begum, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, 301–435–1243, *begumn@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 F04 20L Chemistry/Biophysics Fellowship Panel.

Date: November 12–14, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: David R. Jollie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301)–435–1722, *jollieda@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Proteoglycansin Neural Development Study Section.

Date: November 12, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael M. Sveda, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301)–435–3565, *svedam@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Pathogenesis of Infant Leukemia.

Date: November 12, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, (301) 435–1767, *gubanics@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 F04 21L Chemistry/Biophysics Fellowship Panel.

Date: November 12, 2003.

Time: 4 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: David R. Jollie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301)–435–1722, *jollieda@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center of Scientific Review Special Emphasis Panel; Gene therapy.

Date: November 12, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817), Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center of Scientific Review Special Emphasis Panel; NIBIB Career Award Review.

Date: November 13, 2003.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bonnie Dunn, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Blvd., Suite 920, Bethesda, MD 20892, 301–496–8633, *dunnbo@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center of Scientific Review Special Emphasis Panel; ZRG1 TMP 99: Parasite Vectors.

Date: November 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer and Environmental Epidemiology.

Date: November 13, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Washington/Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158,

MSC 7770, Bethesda, MD 20892, (301) 435–0695, *hardyan@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business, Genetics, Genomics and Nucleic Acid Technologies.

Date: November 13–14, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Michael A. Marino, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Rm. 2216 MSC 7890, Bethesda, MD 20892, 301–435–0601, *marinomi@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Molecular and Cellular Biology Study Section.

Date: November 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, 7400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Kenneth A. Roebuck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Immunology and Pathogenesis Study Section.

Date: November 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Hotel Embassy Row, 2015 Massachusetts Avenue, Washington, DC 20036.

Contact Person: Abraham P. Bautista, MS, MSC, PhD, Scientist Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506, *bautista@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS-associated Opportunistic Infections and Cancer Study Section.

Date: November 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIR/STTR: Cancer Diagnostic and Treatment.

Date: November 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Hungyi Shau, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–1720, *shauhung@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Health of the Population Integrated Review Group; Health Services Organization and Delivery Study Section.

Date: November 13–14, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Adagio, 550 Geary Street, San Francisco, CA 94102.

Contact Person: Charles N. Rafferty, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7816, Bethesda, MD 20892, (301) 435–3562, *raffertc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bio Terrorism & Emerging Infectious Diseases.

Date: November 13–14, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Joseph D. Mosca, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 435–2344, *moscajos@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Aging Systems and Geriatrics Study Section.

Date: November 13, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Charles G. Hollingsworth, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5179, MSC 7840, Bethesda, MD 20892, 301–435–2406, *hollinc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Genetic Sciences Integrated Review Group; Ethical, Legal, and Social Implications of Human Genetics.

Date: November 13–14, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Administrator, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, Building 31, Room B2B37, Bethesda, MD 20892, (301) 402–0838, *pozzattr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; HOP: Review of Small Business Applications.

Date: November 13–14, 2003.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Madison Hotel, 1155 15th Street, NW., Washington, DC 20005.

Contact Person: Valerie Durrant, PhD, Scientific Review Adminstrtator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, Bethesda, MD 20892, (301) 435–3554.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; NIBIB Institutional Training Grant Review.

Date: November 13, 2003.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bonnie Dunn, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Blvd., Suite 920, Bethesda, MD 20892, 301–496–8633, *dunnbo@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Transcriptional Immunology.

Date: November 13, 2002.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, Department of Health and Human Services, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, 301–435–3566, *cooperc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 TPM 03M: DNA Damage and Repair.

Date: November 13, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6212, MSC 7804, Bethesda, MD 20892, (301) 435–1717, *padaratm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cell Death and Injury in Neurodegeneration Study Section.

Date: November 13, 2003.

Time: 2:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Riverfront Hotel, 701 Convention Center Boulevard, New Orleans, LA 70130.

Contact Person: David L. Simpson, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278, *simpsod@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cell Death and Injury in Neurodegeneration.

Date: November 13–15, 2003.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Riverfront Hotel, 701 Convention Center Boulevard, New Orleans, LA 70130.

Contact Person: David L. Simpson, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278, *simpsod@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hearing Mechanisms: Animal Studies.

Date: November 13, 2003.

Time: 12:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal domestic Assistance Program Nos. 93.306, comparative Medicine; 93.333, clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–27709 Filed 11–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Departmental Advisory Committee on Commercial Operations of the Bureau of Customs and Border Protection (''COAC'')

AGENCY: Department of Homeland Security.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the fourth meeting of the eighth term of the Departmental Advisory Committee on Commercial Operations of the Bureau of Customs and Border Protection (COAC), and the expected agenda for its consideration.

DATES: The next meeting of the COAC will be held on Tuesday, November 18, 2003 at 9 a.m. in the Horizon Room, Ronald Reagan Building, located at 1300 Pennsylvania, NW., Washington, DC 20229. The duration of the meeting will be approximately four hours.

FOR FURTHER INFORMATION CONTACT: Vetta Jeffries, Department of Homeland Security, 202–282–8468.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. However, participation in the COAC's deliberations is limited to COAC members, Homeland Security and Treasury Department officials, and persons invited to attend the meeting for special presentations. All persons entering the building must be cleared by building security at least 72 hours in advance of the meeting. Personal data to obtain this clearance must be submitted to Vetta Jeffries, 202–282–8468, no later than 2 p.m. EST on Wednesday, November 12, 2003.

Agenda

The COAC is expected to pursue the following agenda, which may be modified prior to the meeting:

(1) Security Sub-Committee Report (Advance Manifest Rules, Free and Secure Trade (FAST program), Customs-Trade Partnership Against Terrorism and the Container Security Initiative (CTPAT and CSI), CBP Human Capital Plan).

(2) DHS Briefing on DHS Re-Organization.

(3) Other Issues (E-Rulings Project, CBP Participation on WTO Task Force for Global Security Standard, Customs Broker Exam, and Revision of Customs Forms).

Dated: October 29, 2003.

C. Stewart Verdery,

Assistant Secretary for Border and Transportation Security Policy and Planning.

[FR Doc. 03–27763 Filed 10–31–03; 4:44 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1485–DR]

Pennsylvania; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Pennsylvania (FEMA–1485–DR), dated August 23, 2003, and related determinations.

EFFECTIVE DATE: October 23, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Pennsylvania is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 23, 2003:

Blair County for Individual Assistance.

Crawford, Lawrence, McKean, Mercer, Potter, Tioga, Venango, Warren, and Wayne Counties for Individual Assistance (already designated for Public Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 03–27623 Filed 11–3–03; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1491–DR]

Virginia; Amendment No. 8 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia (FEMA–1491–DR), dated September 18, 2003, and related determinations.

EFFECTIVE DATE: October 21, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 18, 2003:

The Independent City of Williamsburg and the counties of Albemarle, Amherst, Buckingham, Fluvanna, and Rappahannock for Categories C through G under the Public Assistance program (already designated for Individual Assistance, including direct Federal assistance and debris removal (Category A) and emergency protective measures (Category B), including direct Federal assistance under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 03–27624 Filed 11–3–03; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1491–DR]

Virginia; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia (FEMA–1491–DR), dated September 18, 2003, and related determinations.

EFFECTIVE DATE: October 18, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Louis H. Botta, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of David Fukutomi as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 03–27625 Filed 11–3–03; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Federal Radiological Preparedness Coordinating Committee Meeting

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) advises the public that the FRPCC will meet on December 2, 2003, in Rockville, Maryland.

DATES: The meeting will be held on December 2, 2003, at 9 a.m.

ADDRESSES: The meeting will be held at U.S. Nuclear Regulatory Commission, Auditorium, Two White Flint North, Rockville, Maryland 20852–2738.

FOR FURTHER INFORMATION CONTACT: Pat Tenorio, FEMA, 500 C Street, SW., Washington, DC 20472, telephone (202) 646–2870; fax (202) 646–4321; or e-mail *pat.tenorio@dhs.gov.*

SUPPLEMENTARY INFORMATION: The role and functions of the FRPCC are described in 44 CFR 351.10(a) and 351.11(a). The Agenda for the upcoming FRPCC meeting is expected to include: (1) Introductions, (2) Federal agencies'

updates, (3) old business, (4) new business, and (5) business from the floor.

The meeting is open to the public, subject to the availability of space. Reasonable provision will be made, if time permits, for oral statements from the public of not more than five minutes in length. Any member of the public who wishes to make an oral statement at the December 2, 2003, FRPCC meeting should request time, in writing, from W. Craig Conklin, FRPCC Chair, FEMA, 500 C Street, SW., Washington, DC 20472. The request should be received at least five business days before the meeting. Any member of the public who wishes to file a written statement with the FRPCC should mail the statement to: Federal Radiological Preparedness Coordinating Committee, c/o Pat Tenorio, FEMA, 500 C Street, SW., Washington, DC 20472.

W. Craig Conklin,

Chief, Nuclear and Chemical Hazards Branch, Preparedness Division, Federal Emergency Management Agency, Chair, Federal Radiological Preparedness Coordinating Committee.

[FR Doc. 03–27626 Filed 11–3–03; 8:45 am]

BILLING CODE 6718–06–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: Immigration Bond; Form I–352.

The Department of Homeland Security (DHS) and the Bureau of Immigration and Customs Enforcement (ICE) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on December 18, 2002 at 67 FR 77511, allowing for a 60-day public comment period. No comments were received by the agency on this proposed information collection. The DHS is now seeking a three-year approval on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 4, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Homeland Security Desk Officer, 725–17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Immigration Bond.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–352, Bureau of Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The data collected on this form is used by DHS to ensure that the person or company posting the bond is aware of the duties and responsibilities associated with the bond. The form serves the purpose of instruction in the completion of the form, together with an explanation of the terms and conditions of the bond.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 12,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, U.S. Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact Mr. Steve Cooper, DHS PRA Clearance Officer, U.S. Department of Homeland Security, Office of the Chief Information Officer, Regional Office Building 3, 7th and D Streets, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 29, 2003.

Richard A. Sloan,

Department Clearance Officer, U.S. Department of Homeland Security, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–27715 Filed 11–3–03; 8:45 am]

BILLING CODE 4410–10–M

INTER-AMERICAN FOUNDATION

Sunshine Act; Meeting of the Board of Directors

TIME AND DATE: November 13, 2003, 9:30 a.m.–12 p.m.

PLACE: Inter-American Foundation, 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open session.

MATTERS TO BE CONSIDERED:

A. Board of Directors Business

1. Welcome and Swearing in of New Members.

2. Approval of Minutes of Last Meeting.

3. President's Report.

- Overview of Fiscal Year 2003
- Grant Review Process
- Congressional Update
- Alternative Funding Mechanisms
- Evaluation and Preliminary GDF Results

4. Restoration of Appropriation in Light of Operations, Performance, Demand and Potential.

5. Millennium Challenge Account: Guidance and Planning for Implementation.

6. Update on the Corporate Foundation Network and its CEO Committee.

7. Presentation on IAF Work in the Area of Transnationalism.

B. Lunch with Presentation on Nicaragua.

C. Coffee with Staff.

FOR FURTHER INFORMATION CONTACT: Carolyn Karr, General Counsel, (703) 306–4350.

Dated: October 31, 2003.

Carolyn Karr,

General Counsel.

[FR Doc. 03–27857 Filed 10–31–03; 1:05 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Comprehensive Conservation Plan and Environmental Assessment for Mingo, Pilot Knob, and Ozark Cavefish National Wildlife Refuges in Southern Missouri and Patoka River National Wildlife Refuge (NWR) in Southwestern Indiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare Comprehensive Conservation Plans (CCP) and Environmental Assessments (EA) pursuant to the National Environmental Policy Act (NEPA) and its implementing regulations, for the following National Wildlife Refuges: Mingo NWR in Wayne and Stoddard Counties, Missouri, Pilot Knob NWR in Iron County, Missouri and Ozark Cavefish NWR in Lawrence County, Missouri, which are managed by Mingo NWR staff and Patoka River NWR in Gibson and Pike Counties, Indiana.

The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*), to achieve the following:

1. Advise other agencies and the public of our intentions; and

2. Obtain additional suggestions and information on the scope of alternatives and impacts to be considered.

Open house style meetings and focus group meetings will be held during the scoping phase of the CCP development process.

In addition, the Service is inviting comments on archeological, historic, and traditional cultural sites in accordance with the National Historic Preservation Act. Cultural resource overview studies will be conducted to identify known historic and cultural sites on the refuges.

Special mailings, newspaper articles, and other media announcements will inform people of the opportunities for written input throughout the CCP planning process.

DATES: We estimate that the draft environmental documents will be available in 2005.

ADDRESSES:

1. Address comments for Mingo NWR, Pilot Knob NWR or Ozark Cavefish NWR to: Refuge Manager, Mingo National Wildlife Refuge, 24279 State Highway 51, Puxico, Missouri 63960–0103.

2. Address comments for Patoka River NWR to: Refuge Manager, Patoka River National Wildlife Refuge, 510½ West Morton Street, Oakland City, Indiana 47660–0217.

You may find information on the CCP planning process and submit comments electronically at the planning Web site: *http://midwest.fws.gov/planning/index.htm* or you may e-mail comments to: *r3planning@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Maycroft, Refuge Manager, Mingo NWR, at 573–222–3589 or Bill McCoy, Refuge Manager, Patoka River NWR, at 812–749–3199.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the Refuge and how the Service will implement management strategies.

The CCP planning process will consider many elements, including wildlife and habitat management, habitat protection and acquisition, wilderness preservation, public recreational activities, industrial use, and cultural resource preservation. Public input into this planning process is essential.

The Service will prepare an Environmental Assessment (EA) in accordance with procedures for implementing NEPA found in the Departmental Manual 516 DM 6, Appendix 1.

Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

Dated: October 22, 2003.

Marvin Moriarty,

Acting Regional Director.

[FR Doc. 03–27666 Filed 11–3–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW155050]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW155050

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

SUMMARY: Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW155050 for lands in Converse County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW155050 effective March 1, 2003, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: September 26, 2003.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 03–27634 Filed 11–3–03; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZAR 04543]

Public Land Order No. 7589; Partial Revocation of Public Land Order No. 1161; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order insofar as it affects approximately 495 acres of National Forest System lands withdrawn for recreational areas. This order opens the lands to such forms of disposition as may by law be made of National Forest System lands and to mining, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

EFFECTIVE DATE: December 4, 2003.

FOR FURTHER INFORMATION CONTACT: Cliff Yardley, BLM Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, 602–417–9437.

SUPPLEMENTARY INFORMATION: The Forest Service has determined that a withdrawal is no longer needed on the lands described in Paragraph 1 and has requested the partial revocation. The Carney Springs Recreation Area is within the Superstition Wilderness Area and will not be opened.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Public Land Order No. 1161, which withdrew National Forest System lands for administrative sites, recreational areas, and other public purposes, is hereby revoked insofar as it affects the following described lands:

Tonto National Forest

Gila and Salt River Meridian

(a) *Bartlett Dam Recreation Area*

T. 5 N., R. 7 E.,
Sec. 4, SE¼NW¼ and N½NW¼SW¼;
Sec. 5, SW¼NE¼ and N½N½SE¼.

Bartlett Lake Recreation Area

T. 6 N., R. 7 E.,
Sec. 27, W½SW¼NW¼ and W½NW¼SW¼;
Sec. 28, SE¼SE¼.

Horseshoe Dam Recreation Area—Area No. 1

T. 7 N., R. 6 E.,
Sec. 2, W½SE¼NW¼ and S½SW¼NW¼.

Horseshoe Dam Recreation Area—Area No. 2

T. 7 N., R. 6 E.,
Sec. 10, W½NE¼NE¼, E½NW¼NE¼, and E½SW¼NE¼.

Lower Camp Creek Recreation Area

T. 6 N., R. 5 E.,
Sec. 1, NW¼SW¼NW¼NW¼, S½SW¼NW¼NW¼, SW¼SE¼NW¼NW¼, NE¼NW¼SW¼NW¼, and NW¼NE¼SW¼NW¼.

Sycamore Forest Camp

T. 11 N., R. 10 E., sec 7, SE¼NW¼SE¼, S½NE¼SE¼, and E½SE¼SE¼;
Sec. 8, SW¼SW¼SW¼;
Sec. 17, NW¼NW¼.

Upper Camp Creek Recreation Area

T. 7 N., R. 5 E.,
Sec. 26, S½SW¼NE¼SW¼ and S½SE¼NW¼SW¼;
Sec. 35, E½NE¼NW¼ and NE¼SE¼NW¼.

(b) *Carney Springs Recreation Area*

T. 1 N., R. 10 E.,
Sec. 30, NE¼SW¼, E½NW¼SW¼, E½SW¼SW¼, and SE¼SW¼.

The areas described aggregate approximately 495 acres.

2. At 10 a.m. on December 4, 2003, the lands described in Paragraph 1(a) will be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 20, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–27635 Filed 11–3–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–050–1430–ET; UTU 50514]

Public Land Order No. 7590; Extension of Public Land Order No. 6543; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends Public Land Order No. 6543 for an additional 20-year period. This extension is necessary to continue protection of the Henry Mountain Administrative Site.

EFFECTIVE DATE: June 7, 2004.

FOR FURTHER INFORMATION CONTACT: Rhonda Flynn, BLM Utah State Office, P.O. Box 45155, Salt Lake City, Utah, 84145–0155, 801–539–4132.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Public Land Order No. 6543 (49 FR 23626, June 7, 1984), which withdrew 41.21 acres of public land from surface entry and mining to protect the Henry Mountain Administrative Site, is hereby extended for an additional 20-year period.

2. Public Land Order No. 6543 will expire June 6, 2024, unless, as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (2000), the Secretary determines that the withdrawal shall be extended.

Dated: October 20, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–27633 Filed 11–3–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–BJ–5043] ES–051993, Group No. 1, Rhode Island

Eastern States: Filing of Plat of Survey; Stayed

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey; Stayed.

On Tuesday, September 30, 2003 there was published in the **Federal Register**, Volume 68, Number 189, on

page 56312 a notice entitled ''Filing of Plat of Survey; Rhode Island.'' In said notice was a plat depicting the survey of the Niles Land, designated Tract No. 8, a portion of the lands held in trust for the Narragansett Indian Tribe in Washington County, Rhode Island, accepted September 23, 2003.

The official filing of the plat is hereby stayed, pending consideration of all protests.

Dated: October 29, 2003.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 03–27667 Filed 11–3–03; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group (AMWG), Notice of Meetings

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meetings.

SUMMARY: The Adaptive Management Program (AMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The AMP provides an organization and process to ensure the use of scientific information in decision making concerning Glen Canyon Dam operations and protection of the affected resources consistent with the Grand Canyon Protection Act. The AMP has been organized and includes a federal advisory committee (AMWG), a technical work group (TWG), a monitoring and research center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and information for the AMWG to act upon.

Date and Location: The AMWG will conduct the following public meeting:

Phoenix, Arizona—January 7 to January 8, 2004. The meeting will begin at 9:30 a.m. and conclude at 5 p.m. on the first day and will begin at 8 a.m. and conclude at 2 p.m. on the second day. The meeting will be held at the Bureau of Indian Affairs—Western Regional Office, 2 Arizona Center, 400 N. 5th Street, Conference Rooms A and B (12th Floor), Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss the FY 2005 budget, environmental compliance required on the temperature control device, current and potential future temperatures of Glen Canyon Dam releases, humpback chub comprehensive plan and peer review, long-term monitoring plan development, update on GCMRC reorganization, review of AMWG Charter and Operating Procedures, experimental flows, basin hydrology, and other administrative and resource issues pertaining to the AMP.

Date and Location: The TWG will conduct the following public meeting:

Phoenix, Arizona—November 12 to November 13, 2003. The meeting will begin at 9:30 a.m. and conclude at 5 p.m. on the first day and will begin at 8 a.m. and conclude at noon on the second day. The meeting will be held at the Bureau of Indian Affairs—Western Regional Office, 2 Arizona Center, 400 N. 5th Street, Conference Rooms A and B (12th Floor), Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss the FY 2005 budget, NEPA requirements for FY 2004 and FY 2005 actions, flow modifications, update on GCMRC reorganization, Cultural Programmatic Agreement Program, FY 2004 project reviews, environmental compliance, and other administrative and resource issues pertaining to the AMP.

To allow full consideration of information by the AMWG, written notice must be provided to Dennis Kubly, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah, 84138; telephone (801) 524–3715; faxogram (801) 524–3858; e-mail at *dkubly@uc.usbr.gov* (5) days prior to the meeting. Any written comments received will be provided to the AMWG members prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Dennis Kubly, telephone (801) 524–3715; faxogram (801) 524–3858; or via e-mail at *dkubly@uc.usbr.gov.*

Dated: October 24, 2003.

Dennis Kubly,

Chief, Adaptive Management Group, Environmental Resources Division, Upper Colorado Regional Office.

[FR Doc. 03–27628 Filed 11–3–03; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #249]

Controlled Substances: Proposed Aggregate Production Quotas for 2004

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed year 2004 aggregate production quotas.

SUMMARY: This notice proposes initial year 2004 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: Comments or objections must be received on or before November 25, 2003.

ADDRESSES: Send comments or objections to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn.: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by § 0.100 of title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator, pursuant to § 0.104 of title 28 of the Code of Federal Regulations.

The proposed year 2004 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 2004 to provide adequate supplies of each substance for: The estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes.

In determining the proposed year 2004 aggregate production quotas, the Acting Deputy Administrator considered the following factors: Total actual 2002 and estimated 2003 and 2004 net disposals of each substance by all manufacturers; estimates of 2003 year-end inventories of each substance and of any substance manufactured from it and trends in accumulation of such inventories; product development requirements of both bulk and finished dosage form manufacturers; projected demand as indicated by procurement quota applications filed pursuant to § 1303.12 of title 21 of the Code of Federal Regulations; and other pertinent information.

Pursuant to part 1303 of title 21 of the Code of Federal Regulations, the Acting

Deputy Administrator of the DEA will, in early 2004, adjust aggregate production quotas and individual manufacturing quotas allocated for the year based upon 2003 year-end inventory and actual 2003 disposition data supplied by quota recipients for each basic class of Schedule I or II controlled substance.

Therefore, under the authority vested in the Attorney General by § 306 of the CSA of 1970 (21 U.S.C. 826), and delegated to the Administrator of the DEA by § 0.100 of title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to § 0.104 of title 28 of the Code of Federal Regulations, the Acting Deputy Administrator hereby proposes that the year 2004 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Proposed year 2004 quotas
Schedule I	
2,5-Dimethoxyamphetamine	3,501,000
2,5-Dimethoxy-4-ethylamphetamine (DOET)	2
3-Methylfentanyl	2
3-Methylthiofentanyl	2
3,4-Methylenedioxyamphetamine (MDA)	11
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	5
3,4-Methylenedioxymethamphetamine (MDMA)	16
3,4,5-Trimethoxyamphetamine	2
4-Bromo-2,5-Dimethoxyamphetamine (DOB)	2
4-Bromo-2,5-Dimethoxyphenethylamine (2–CB)	2
4-Methoxyamphetamine	2
4-Methylaminorex	2
4-Methyl-2,5-Dimethoxyamphetamine (DOM)	2
5-Methoxy-3,4-Methylenedioxyamphetamine	2
Acetyl-alpha-methylfentanyl	2
Acetyldihydrocodeine	2
Acetylmethadol	2
Allylprodine	4
Alphacetylmethadol	2
Alpha-ethyltryptamine	2
Alphameprodine	2
Alphamethadol	3
Alpha-methylfentanyl	2
Alpha-methylthiofentanyl	2
Aminorex	2
Benzylmorphine	2
Betacetylmethadol	2
Beta-hydroxy-3-methylfentanyl	2
Beta-hydroxyfentanyl	2
Betameprodine	2
Betamethadol	2
Betaprodine	2
Bufotenine	2
Cathinone	2
Codeine-N-oxide	352
Diethyltryptamine	2
Difenoxin	9,000
Dihydromorphine	1,101,000
Dimethyltryptamine	3
Gamma-hydroxybutyric acid	10,000,000
Heroin	5
Hydromorphinol	2
Hydroxypethidine	2
Lysergic acid diethylamide (LSD)	61
Marihuana	840,000
Mescaline	2
Methaqualone	5
Methcathinone	4
Methyldihydromorphine	2
Morphine-N-oxide	352
N,N-Dimethylamphetamine	2
N-Ethyl-1-Phenylcyclohexylamine (PCE)	5
N-Ethylamphetamine	7
N-Hydroxy-3,4–Methylenedioxyamphetamine	2
Noracymethadol	2
Norlevorphanol	52
Normethadone	2
Normorphine	12
Para-fluorofentanyl	2
Phenomorphan	2
Pholcodine	2

Basic class	Proposed year 2004 quotas
Propiram	210,000
Psilocybin	2
Psilocyn	2
Tetrahydrocannabinols	176,000
Thiofentanyl	2
Trimeperidine	2
Schedule II	
1-Phenylcyclohexylamine	2
1-Piperidinocyclohexanecarbonitrile (PCC)	10
Alfentanil	200
Alphaprodine	2
Amobarbital	3
Amphetamine	10,987,000
Cocaine	186,000
Codeine (for sale)	41,341,000
Codeine (for conversion)	42,136,000
Dextropropoxyphene	167,365,000
Dihydrocodeine	681,000
Diphenoxylate	716,000
Ecgonine	38,000
Ethylmorphine	2
Fentanyl	970,000
Glutethimide	2
Hydrocodone (for sale)	30,622,000
Hydrocodone (for conversion)	1,500,000
Hydromorphone	1,651,000
Isomethadone	2
Levo-alphacetylmethadol (LAAM)	2
Levomethorphan	0
Levorphanol	15,000
Meperidine	9,753,000
Metazocine	1
Methadone (for sale)	14,057,000
Methadone Intermediate	17,393,000
Methamphetamine	2,275,000
825,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 1,420,000 grams for methamphetamine mostly for conversion to a schedule III product; and 30,000 grams for methamphetamine (for sale)	
Methylphenidate	23,726,000
Morphine (for sale)	20,762,000
Morphine (for conversion)	110,774,000
Nabilone	2
Noroxymorphone (for sale)	99,000
Noroxymorphone (for conversion)	2,900,000
Opium	1,000,000
Oxycodone (for sale)	41,182,000
Oxycodone (for conversion)	700,000
Oxymorphone	466,000
Pentobarbital	18,251,000
Phencyclidine	60
Phenmetrazine	2
Phenylacetone	0
Secobarbital	1,000
Sufentanil	3,000
Thebaine	58,832,000

The Acting Deputy Administrator further proposes that aggregate production quotas for all other Schedules I and II controlled substances included in §§ 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations be established at zero.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Acting Deputy Administrator finds warrant a hearing, the Acting Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866.

This action does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to

enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

The Acting Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Acting Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

This action meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

This action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of this regulation, call or write Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

Dated: October 27, 2003.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 03–27636 Filed 11–3–03; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(OJJDP) Docket No. 1391]

Office of Juvenile Justice and Delinquency Prevention: Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is announcing the meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention. This meeting will be open to the public.

DATES: Friday, November 14, 2003, from 10 a.m. to 1 p.m. (ET).

ADDRESSES: The meeting will take place at the U.S. Department of Justice, Office of Justice Programs, Main Conference Room, 3rd Floor, 810 Seventh Street NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Daryel Dunston, Program Manager, Juvenile Justice Resource Center, at: (301) 519–6473, or Karen Boston, Administrative Coordinator, Juvenile Justice Resource Center, at: (301) 519–5535. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. Sec. 5601, *et seq.* Documents such as meeting announcements, agendas, minutes, and interim and final reports will be available on the Council's Web page at *ojjdp.ncjrs.org/council/index.html.*

Oral and Written Comments

Requests for the opportunity to present oral comments during the meeting must be made in writing, and received no later than 12 noon, ET, on November 7, 2003. Requests should be sent to Marilyn Roberts, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, by fax at: (202) 307–2093, or by e-mail, at: *robertsm@ojp.usdoj.gov.* In general, each individual or group making an oral presentation will be limited to a total time of 10 minutes.

Written comments may be submitted to the Office of Juvenile Justice and Delinquency Prevention, by fax at: (202) 307–2093, or by e-mail at: *robertsm@ojp.usdoj.gov.*

The Coordinating Council on Juvenile Justice and Delinquency Prevention expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Members of the public who wish to attend the meeting should notify the Juvenile Justice Resource Center at (301) 519–6473 (Daryel Dunston) or at (301) 519–6473 (Karen Boston), by 5 p.m., ET, on Friday, November 7, 2003. (These are not toll-free numbers.) To register for the meeting online, go to *ojjdp.ncjrs.org/council/meetings.html.*

Note: For security purposes, photo identification will be required for admission to the meeting.

Dated: October 29, 2003.

William L. Woodruff,

Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 03–27630 Filed 11–3–03; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0147 (2004)]

Definition and Requirements for a Nationally Recognized Testing Laboratory; Extension of the Office of Management and Budget's Approval of Information-Collection (Paperwork) Requirements

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

ACTION: Request for comment.

SUMMARY: OSHA requests comment concerning its proposed extension of the information-collection requirements specified by its Regulation on Nationally Recognized Testing Laboratory (29 CFR 1910.7). The Regulation specifies procedures that organizations must follow to apply for, and to maintain, OSHA's recognition to test and certify equipment, products, or material for their purpose.

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted (postmarked or received) by January 5, 2004.

Facsimile and electronic transmission: Your comments must be received by January 5, 2004.

ADDRESSES:

I. Submission of Comments

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Docket No. ICR 1218–0147 (2004), Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., EST.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number, ICR 1218–0147 (2004), in your comments.

Electronic: You may submit comments, but not attachments, through the Internet at *http://ecomments.osh.gov/.*

You may submit comments in response to this document by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA webpage. Please note you cannot attach materials such as studies or journal articles to electronic comments. If you have additional materials, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

II. Obtaining Copies of the Supporting Statement for the Information Collection Request

The Supporting Statement for the Information Collection Request is available for downloading from OSHA's Web site at *http://www.osha.gov.* The supporting statement is available for inspection and copying in the OSHA Docket Office, at the address listed above. A printed copy of the supporting statement can be obtained by contacting Bernard Pasquet at (813) 626–1177 ext. 3005.

FOR FURTHER INFORMATION CONTACT:

Bernard Pasquet, Directorate of Science, Technology and Medicine, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimized, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement or the Act for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

A number of standards issued by the Occupational Safety and Health Administration (OSHA) contain requirements for equipment, products, or materials. These standards often specify that employers use only equipment, products, or material tested or approved by a nationally recognized testing laboratory (NRTL); this requirement ensures that employers use safe and efficacious equipment, products, or materials in complying with the standards. Accordingly, OSHA promulgated the regulation titled ''Definition and Requirements for a Nationally Recognized Testing Laboratory'' (the Regulation). The Regulation specifies procedures that organizations must follow to apply for, and to maintain, OSHA's recognition to test and certify equipment, products, or material for this purpose.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection-of-information requirements specified by the Standard on the Nationally Recognized Testing Laboratory. There is an 85 burden hour reduction as a result of fewer organizations submitting initial recognition applications. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of a currently-approved information-collection requirement.

Title: Nationally Recognized Testing Laboratory (29 CFR 1910.7).

OMB Number: 1218–0147.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government; Federal Government.

Number of Respondents: 62.

Frequency of Recordkeeping: On occasion.

Total Response: 62.

Average Time per Response: 160 hours for an organization to prepare initial recognition applications to 16 hours for an annual site visit.

Estimated Total Burden Hours: 1,260.

Estimated Cost (Operation and Maintain): 0.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC October 29, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 03–27631 Filed 11–3–03; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL1–89]

Intertek Testing Services NA, Inc., Expansion of Recognition

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

ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision to approve an expansion of its recognition of Intertek Testing Services NA, Inc., (ITSNA) as a Nationally Recognized Testing Laboratory (NRTL) to include an additional 46 test standards. ITSNA is also approved to use one other test standard, ANSI/BHMA A156.3 Exit Devices, on an interim basis, subject to review.

DATES: *Recognition:* This recognition becomes effective on November 4, 2003 and, unless modified in accordance with 29 CFR 1910.7, continues in effect while ITSNA remains recognized by OSHA as an NRTL. *Comments on Interim Approval:* Comments on the interim approval for test standard ANSI/BHMA A156.3 Exit Devices must be received no later than November 19, 2003.

ADDRESSES: Submit comments on the interim approval for test standard ANSI/BHMA A156.3 Exit Devices to: the OSHA Docket Office, Docket NRTL1–89, Room N–2625, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington DC, 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet or Roy Resnick, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3653, Washington DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of Intertek Testing Services NA, Inc., (ITSNA) as a Nationally Recognized Testing Laboratory (NRTL). ITSNA's expansion covers the use of additional test standards. OSHA's current scope of recognition for ITSNA may be found in the following informational Web page: *http://www.osha-slc.gov/dts/otpca/nrtl/its.html*.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in § 1910.7 of title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products ''properly certified'' by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope.

ITSNA submitted an application, dated June 3, 2002 (*see* Exhibit 43), to expand its recognition to use 141 additional test standards. The NRTL Program staff determined that 94 of the 141 test standards cannot be included in the expansion because they either are not ''appropriate test standards,'' within the meaning of 29 CFR 1910.7(c), or are already included in ITSNA's scope. The staff makes similar determinations in processing expansion requests from any NRTL. Therefore, OSHA approves 47 test standards for the expansion, which are listed below. However, one of these standards was inadvertently excluded from the listing published in the preliminary notice. Therefore, only 46 standards were listed even though the notice showed the total was 47. We are including this standard in the expansion as explained below under Interim Approval Subject to Review.

In connection with ITSNA's expansion request, OSHA did not perform an on-site review (evaluation) of ITSNA. However, an OSHA NRTL Program assessor reviewed information pertinent to this request and recommended that ITSNA be granted the expansion (see Exhibit 45). OSHA delayed processing of this request, in part, through no fault of the NRTL.

OSHA published the notice of its preliminary findings on the expansion request in the **Federal Register** on June 20, 2003 (68 FR 37026). The notice requested submission of any public comments by July 7, 2003. OSHA did not receive any comments pertaining to the application.

The previous notices published by OSHA for ITSNA's recognition covered another expansion of recognition, which became effective on March 25, 2003 (68 FR 14430).

You may obtain or review copies of all public documents pertaining to the ITSNA application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N2625, Washington, DC 20210. You should refer to Docket No. NRTL1–89, the permanent record of public information on ITSNA's recognition.

The current addresses of the ITSNA facilities already recognized by OSHA are:

ITSNA Atlanta, 1950 Evergreen Blvd., Suite 100, Duluth, Georgia 30096
ITSNA Boxborough, 70 Codman Hill Road, Boxborough, Massachusetts 01719
ITSNA Cortland, 3933 U.S. Route 11, Cortland, New York 13045
ITSNA Lexington, 731 Enterprise Drive, Lexington, Kentucky 40510
ITSNA Los Angeles, 27611 LaPaz Road, Suite C, Laguna Niguel, California 92677
ITSNA Madison, 8431 Murphy Drive, Middleton, Wisconsin 53562
ITSNA Minneapolis, 7250 Hudson Blvd., Suite 100, Oakdale, Minnesota 55128
ITSNA San Francisco, 1365 Adams Court, Menlo Park, CA 94025
ITSNA Sweden AB, Box 1103, S–164 #22, Kista, Stockholm, Sweden
ITSNA Totowa, 40 Commerce Way, Unit B, Totowa, New Jersey 07512
ITSNA Vancouver, 211 Schoolhouse Street, Coquitlam, British Columbia, V3K 4X9 Canada
ITSNA Hong Kong, 2/F., Garment Centre, 576 Castle Peak Road, Kowloon, Hong Kong
ITSNA Taiwan, 14/F., Huei Fung Building, 27, Chung Shan North Road, Sec. 3, Taipei 10451, Taiwan

Interim Approval Subject to Review

As mentioned above, one of the test standards was inadvertently excluded from the listing of test standards in the preliminary notice. The standard is ANSI/BHMA A156.3 Exit Devices. Therefore, OSHA is expanding the recognition of ITSNA to include this standard. The total approved for the expansion remains at 47, the number mentioned in the preliminary notice. However, since this standard was not included in the preliminary notice, the Agency will provide interested parties an opportunity to comment. Comments submitted by interested parties must be received no later than November 19, 2003 at the address listed above. If we

receive comments, OSHA will determine whether additional procedures are necessary.

Existing Conditions

Currently, OSHA imposes certain conditions on its recognition of ITSNA. As mentioned in previous notices, these conditions continue to apply solely to ITSNA's NRTL operations and are in addition to any other condition that OSHA normally imposes in its recognition of an organization as an NRTL. One condition refers to ''ITSLtd'', which represents Intertek Testing Services, Ltd., the parent company of ITSNA. For background as to why we imposed the condition, *see* 63 FR 69676, December 17, 1998, and 66 FR 29178, May 29, 2001. We include these conditions in this notice mainly for information and list them first under the Conditions section below.

Final Decision and Order

The NRTL Program staff has examined the application, the assessor's recommendation, and other pertinent information. Based upon this examination and the recommendation, OSHA finds that Intertek Testing Services NA, Inc., has met the requirements of 29 CFR 1910.7 for expansion of its recognition to include an additional 46 test standards subject to the limitation and conditions listed below, and one added standard subject to further review. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of ITSNA, subject to this limitation and these conditions.

Limitation

OSHA limits the expansion to testing and certification of products for demonstration of conformance to the following 46 test standards, and OSHA has determined the standards are appropriate within the meaning of 29 CFR 1910.7(c).

* ANSI/BHMA A156.3 Exit Devices [interim approval only]
ANSI Z21.69 Connectors for Movable Gas Appliances
ANSI Z21.86 Vented Gas-Fired Space Heating Appliance
ANSI Z21.88 Vented Gas Fireplace Heaters
UL 6A Electrical Rigid Metal Conduit—Aluminum, Bronze, and Stainless Steel
ANSI/NFPA 11 Low Expansion Foam and Combined Agent Systems
ANSI/NFPA 11A Medium- and High-Expansion Foam Systems
ANSI/NFPA 12 Carbon Dioxide Extinguishing Systems
ANSI/NFPA 12A Halon 1301 Fire Extinguishing Agent Systems
ANSI/NFPA 17 Dry Chemical Extinguishing Systems
ANSI/NFPA 20 Installation of Stationary Pumps for Fire Protection
UL 497C Protectors for Coaxial Communications Circuits
UL 498A Current Taps and Adapters
UL 508A Industrial Control Equipment
UL 514D Cover Plates for Flush-Mounted Wiring Devices
UL 536 Flexible Metallic Hose
UL 698A Industrial Control Panels Relating to Hazardous (Classified) Locations
UL 789 Indicator Posts for Fire-Protection Service
UL 797A Electrical Metallic Tubing—Aluminum
UL 963 Sealing, Wrapping, and Marking Equipment
UL 1425 Cables for Non-Power-Limited Fire-Alarm Circuits
UL 1434 Thermistor-Type Devices
UL 1653 Electrical Nonmetallic Tubing
UL 1655 Community-Antenna Television Cables
UL 1682 Plugs, Receptacles, and Cable Connectors, of the Pin and Sleeve Type
UL 1699 Arc-Fault Circuit-Interrupters
UL 1741 Inverters, Converters, and Controllers for Use in Independent Power Systems
UL 1887 Fire Test of Plastic Sprinkler Pipe for Flame and Smoke Characteristics
[1] UL 2017 General Purpose Signaling Devices and Systems
[2] UL 2089 Vehicle Battery Adapters
UL 2125 Motor-Operated Air Compressors for Use in Sprinkler Systems
UL 2127 Inert Gas Clean Agent Extinguishing System Unit
UL 2166 Halocarbon Clean Agent Extinguishing System Units
UL 2202 Electric Vehicle (EV) Charging System Equipment
UL 2227 Overfilling Prevention Devices
UL 60335–2–34 Household and Similar Electrical Appliances, Part 2; Particular Requirements for Motor-Compressors
UL 60730–2–4 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Thermal Motor Protectors for Motor Compressors or Hermetic and Semi-Hermetic Type
UL 60730–2–6 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Automatic Electrical Pressure Sensing Controls Including Mechanical Requirements
UL 60730–2–9 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Temperature Sensing Controls
UL 60730–2–10A Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Electrically-Operated Motor Starting Relays
UL 60730–2–11A Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Energy Regulators
UL 60730–2–12A Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Electrically-Operated Doors
UL 60730–2–13A Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Humidity Sensing Controls
UL 60730–2–14 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Electric Actuators
UL 61010A–2–020 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Centrifuges
UL 61010C–1 Process Control Equipment
UL 61058–1 Switch for Appliances

Note: Testing and certification of gas operated equipment is limited to equipment for use with ''liquefied petroleum gas'' (''LPG'' or ''LP—Gas'')

OSHA's recognition of ITSNA, or any NRTL, for a particular test standard is limited to equipment or materials (*i.e.*, products) for which OSHA standards require third party testing and certification before use in the workplace. Consequently, any NRTL's scope of recognition excludes any product(s) that fall within the scope of a test standard, but for which OSHA standards do not require NRTL testing and certification.

Many of the UL test standards listed above also are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience, we use the designation of the standards developing organization (*e.g.*, UL 536) for the standard, as opposed to the ANSI designation (*e.g.*, ANSI/UL 536). Under our procedures, any NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard. (Contact ANSI or the ANSI web site (*http://www.ansi.org*) and click ''NSSN'' to find

[1] This standard is approved for testing and certification of vehicle battery adaptors for use within recreational vehicles and mobile homes.

[2] Limited to electrical portions only.

out whether or not a test standard is currently ANSI-approved.)

Conditions

Intertek Testing Services NA, Inc., must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

ITSNA may perform safety testing for hazardous location products only at the specific ITSNA sites that OSHA has recognized, and that have been pre-qualified for such testing by the ITSNA Chief Engineer. In addition, all safety test reports for hazardous location products must undergo a documented review and approval at the Cortland testing facility by a test engineer qualified in hazardous location safety testing, prior to ITSNA's initial or continued authorization of the certifications covered by these reports;

ITSNA may not test and certify any products for a client that is a manufacturer or vendor that is either owned in excess of 2% by ITSLtd or affiliated organizationally with ITSNA;

ITSNA must have specific written testing procedures in place before testing products covered by any test standard for which it is recognized and must use these procedures in testing and certifying those products;

OSHA must be allowed access to ITSNA's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If ITSNA has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the organization that developed the test standard of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

ITSNA must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, ITSNA agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

ITSNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

ITSNA will meet all the terms of its recognition and will comply with all OSHA policies pertaining to this recognition; and

ITSNA will continue to meet the requirements for recognition in all areas where it has been recognized.

Signed at Washington, DC this 24th day of October, 2003.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 03–27647 Filed 11–3–03; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Search Committee for LSC President and Inspector General

TIME AND DATE: The Board of Directors' Search Committee for LSC President and Inspector General will meet on November 10, 2003. The meeting will begin at 8:00 a.m. and continue until conclusion of the Committee's agenda.

LOCATION: Heidrick & Struggles, 303 Peachtree Street, NE, Suite 4300, Atlanta, GA 30308.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors authorizing the Committee to hold an executive session. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(2), (4) & (6)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR 1622.5(a), (c) & (e)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Consider and act on other business.

Closed Session

3. Interviews of select candidates for the position of LSC President.
4. Review and discussion of interviewed candidates.
5. Selection of candidates to recommend to the full Board for further consideration.

Open Session

6. Consider and act on adjournment of meeting.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel and Corporate Secretary, at (202) 295–1500.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth Cushing at (202) 295–1500.

Dated: October 31, 2003.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel and Corporate Secretary.

[FR Doc. 03–27789 Filed 10–31–03; 9:32 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–136]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATES: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Edward K. Fein, Patent Counsel, Johnson Space Center, Mail Code HA, Houston, TX 77058–8452; telephone (281) 483–4871; fax (281) 244–8452.

NASA Case No. MSC–23193–1: Passive Tracking System And Method (This Is A Continuation);

NASA Case No. MSC–23193–3: Passive Tracking System And Method (This Is A CIP);

NASA Case No. MSC–23518–1: Solid Freeform Fabrication Apparatus And Method;

NASA Case No. MSC–23554–1: An Automated Glucose Control System And Uses Therefore.

Dated: October 29, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–27679 Filed 11–3–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–137]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATES: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: James McGroary, Patent Counsel, Marshall Space Flight Center, Mail Code LS01, Huntsville, AL 35812; telephone (256) 554–0013; fax (256) 544–0258.

NASA Case No. MFS–31637–1: Low Gravity Glass Plate Processing Facility;

NASA Case No. MFS–31706–1: Single Ball Bearing Lubricant And Material Evaluator;

NASA Case No. MFS–31785–1: Video Guidance Sensor System With Integrated Rangefinding;

NASA Case No. MFS–31807–1: Global Radius Of Curvature Estimation And Control System For Segmented Mirrors;

NASA Case No. MFS–31843–1: Fiber Coupled Laser Diodes With Even Illumination Pattern;

NASA Case No. MFS–31865–1: Control Method For Video Guidance Sensor System;

NASA Case No. MFS–31905–1: Releasable Locking Mechanisms;

NASA Case No. MFS–31906–1: Orthopedic Leg Brace.

NASA Case No. MFS–31823–1: Radio-frequency Driven Dielectric Heaters For Non-Nuclear Testing In Nuclear Core Development.

Dated: October 29, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–27680 Filed 11–3–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–138]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Kent N. Stone, Patent Counsel, Glenn Research Center at Lewis Field, Code 500–118, Cleveland, OH 44135; telephone (216) 433–8855; fax (216) 433–6790.

NASA Case No. LEW–17093–2: NiAi-Based Approach for Rocket Combustion Chambers;

NASA Case No. LEW–17133–3: Polyimides By Photochemical Cyclopolymerization;

NASA Case No. LEW–17170–2: Multi-Functional Micro Electromechanical Silicon Carbide Accelerometer;

NASA Case No. LEW–17182–1: Acoustic Seal

NASA Case No. LEW–17222–2: Method of Assembling a Silicon Carbide High Temperature Anemometer;

NASA Case No. LEW–17353–1: Series Connected Buck Converter;

NASA Case No. LEW–17427–1: Apparatus and Process for Producing Atomic Oxygen on the Inside of Tubing;

NASA Case No. LEW–17484–1: A Compact Microscope Imaging System With Intelligent Controls.

Dated: October 29, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–27681 Filed 11–3–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–139]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATES: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Linda Blackburn, Patent Counsel, Langley Research Center, Mail Code 212, Hampton, VA 23681–2199; telephone (757) 864–9260; fax (757) 864–9190.

NASA Case No. LAR–15816–2: Piezoelectric Composite Apparatus and a Method for Fabricating the Same;

NASA Case No. LAR–16432–1: Synthesis of Carbon Nanotubes Using High Average Power Ultrafast Laser Ablation;

NASA Case No. LAR–16091–1: Optically Stimulated Electron Emission Contamination Monitor and Method;

NASA Case No. LAR–16516–1: Tributary Analysis Monitoring System.

Dated: October 29, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–27682 Filed 11–3–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–140]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATES: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Randy Heald, Patent Counsel, Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899; telephone (321) 867–7214; fax (321) 867–1817.

NASA Case No. KSC–12518: Hydrogen Peroxide Catalytic Decomposition;

NASA Case No. KSC–12540: High Performance Immobilized Liquid Membranes for Carbon Dioxide Separations.

Dated: October 29, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–27683 Filed 11–3–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–141]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been

filed in the United States Patent and Trademark office, and are available for licensing.

DATES: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Diana M. Cox, Patent Counsel, Goddard Space Flight Center, Mail Code 503, Greenbelt, MD 20771–0001; telephone (301) 286–7351; fax (301) 286–9502.

NASA Case No. GSC–14436–1: Minimum Cycle Slip Airborne Differential Carrier Phase GPS Antenna;

NASA Case No. GSC–14673–1: Computing Instantaneous Frequency By Normalizing Hilbert Transform.

Dated: October 29, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–27684 Filed 11–3–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–142)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: November 4, 2003.

FOR FURTHER INFORMATION CONTACT: Rob M. Padilla, Patent Counsel, Ames Research Center, Mail Code 202A–4, Moffett Field, CA 94035–1000; telephone (650) 604–5104; fax (650) 604–2767.

NASA Case No. ARC–14281–3: Method For Constructing Composite Resonse Surfaces By Combining Neural Networks With Polynomial Interpolation Or Estimation Techniques;

NASA Case No. ARC–14929–1: Reactive Carbon From Biological Waste;

NASA Case No. ARC–14948–1: Computing An Envelope For Stepwise-Constant Resource Allocations;

NASA Case No. ARC–15036–1: Aviation Data Integration System (ADIS): Secure Integration Of Aviation Data With De-Identified Flight Data;

NASA Case No. ARC–15088–2: Provision Of Carbon Nanotube Bucky Paper Capes For Monitoring For Presence Of A Substance.

Dated: October 29, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–27685 Filed 11–3–03; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY: Nuclear Regulatory Commission.

DATE: Weeks of November 3, 10, 17, 24, December 1, 8, 2003.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 3, 2003

There are no meetings scheduled for the Week of November 3, 2003

Week of November 10, 2003—Tentative

Wednesday, November 12, 2003

2 p.m. Discussion of Intergovernmental Issues (Closed—Ex. 9)

Week of November 17, 2003—Tentative

Thursday, November 20, 2003

12:45 p.m. Briefing on Threat Environment Assessment (Closed—Ex. 1)

Week of November 24, 2003—Tentative

There are no meetings scheduled for the Week of November 24, 2003

Week of December 1, 2003—Tentative

There are no meetings scheduled for the Week of November 1, 2003

Week of December 8, 2003—Tentative

Tuesday, December 9, 2003

1:30 p.m. Briefing on Equal Employment Opportunity Program, (Public Meeting) (Contact: Corenthis Kelley, 301–415–7380)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301) 415–1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: October 30, 2003.

D.L. Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 03–27799 Filed 10–31–03; 10:22 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48714; File No. SR–NASD–2003–157]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. Relating to Permanent Fee Structure for the Trade Reporting and Compliance Engine (TRACE)

October 29, 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 October 14, 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, II, and III below, which Items have been prepared by NASD. On October 22, 2003, NASD filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rule 7010(k) relating to fees for the Trade Reporting and Compliance Engine (''TRACE'') prior to the expiration of the pilot program for fees on January 31, 2004 and seeking permanent approval of the fee structure. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See letter from Kosha K. Dalal, Assistant General Counsel, NASD, to Katharine A. England, Assistant Director, Division of Market Regulation, SEC, dated October 22, 2003 (''Amendment No. 1''). Amendment No. 1 makes certain technical corrections and deletes the phrase ''(including in some cases members)'' in describing the proposed rule text providing that certain summary market information of Delayed-Time TRACE transaction data may be published or distributed by newspapers, press associations, newsletters, or similar media sources without charge.

7010. System Services

(a) through (j) No Change.

(k) Trade Reporting and Compliance Engine (TRACE)

[(Rule 7010(k) shall expire on January 31, 2004, unless amended, extended, or permanently adopted by NASD pursuant to SEC approval at or before such date).]

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine (''TRACE''):

System fees	Transaction reporting fees	Market data fees
[From 07/01/02 to 12/31/02: Web Browser Access: $85/month for 1 user ID; $75/month for 2–9 user IDs; $70/month for 2–10+ user IDs, except] [If less than 25 trades per month, in October, November, or December 2002—$25/month per user ID] [From 01/01/03 to 01/31/04: Level I Trade Report Only Web Browser Access—$25/month per user ID] [Level II Full Service Web Browser Access—$85/month per user ID, except] *Level I Trade Report Only Web Browser Access—$20/month per user ID Level II Full Service Web Browser Access—$80/month per user ID* [For a period of one calendar month to be announced: Level II Full Service Web Browser Access—will be $25/month per user ID]	[From 07/01/02 to 12/31/02: Trades up to and including $200,000 par value—$0.50/trade; Trades between $201,000 and $999,999 par value—$0.0025 times the number of bonds traded/trade; Trades of $1,000,000 par value or more—$2.50/trade] [From 01/01/03 to 01/31/04:] Trades up to and including $200,000 par value—$0.475/trade; Trades between $201,000 and $999,999 par value—$0.002375 times the number of bonds traded/trade; Trades of $1,000,000 par value or more—$2.375/trade	BTDS Professional *Real-Time Data.* Display—$60/month per terminal, except [For a period of one calendar month to be announced: Waiver of fee ($0)]
CTCI/Third Party—$25/month/per firm	[From 07/01/02 to 12/31/02: Cancel/Correct—$3/trade, except For October 2002—$1.50/trade, For November 2002—$2.25/trade] [From 01/01/03 to 01/31/04:] Cancel/Correct—$1.50/trade	*BTDS Professional Delayed-Time Data Display—$15/month per terminal*
[Third Party—$25/month]	[From 07/01/02 to 12/31/02: ''As of'' Trade Late—$3/trade, except For October 2002—$1.50/trade, For November 2002—$2.25/trade] [From 01/01/03 to 01/31/04:] ''As of'' Trade Late—$3/trade [Browse & Query—$0.05 after first page]	BTDS Internal Usage Authorization—$500/month per application/service for *Real-Time and Delayed-Time Data* BTDS External Usage Authorization—$1,000/month per application/service for *Real-Time and Delayed-Time Data* BTDS Non-Professional *Real-Time Data* Display—$1/month per terminal

(1) *System Related Fees.* There are three methods by which a member may report corporate bond transactions that are reportable to NASD pursuant to the Rule 6200 Series. A member may choose among the following methods to report data to NASD: (a) a TRACE web browser; (b) a Computer-to-Computer Interface (''CTCI'') (either one dedicated solely to TRACE or a multi-purpose line); or (c) a third-party reporting intermediary. Fees will be charged based on the reporting methodology selected by the member.

(A) Web Browser Access

[(i) For the period commencing July 1, 2002 and ending December 31, 2002, the charge to be paid by a member that elects to report TRACE data to NASD via a TRACE web browser shall be as follows: for the first user ID registered, a charge of $85 per month; for the next two through nine user IDs registered, a charge of $75 per month, per such additional user ID; and for ten or more user IDs registered, a charge of $70 per month, per user ID from two to ten or more. If a member reports less than 25 trades per month to the TRACE system in October, November, or December 2002, the charge to be paid by a member for the TRACE web browser shall be $25, per such month, per user ID.]

[(ii) For the period commencing January 1, 2003 and ending January 31, 2004, the charge to be paid by a member that elects to report TRACE data to NASD via a TRACE web browser shall be as follows: $25 per month, per user ID for Level I Web Trade Report Only Browser Access and $85 per month, per user ID for Level II Full Service Web Browser Access.] *The charge to be paid by a member that elects to report TRACE data to NASD via a TRACE web browser shall be as follows: $20 per month, per user ID for Level I Web Trade Report Only Browser Access and $80 per month, per user ID for Level II Full Service Web Browser Access.* [Notwithstanding the above sentence, following the effective date of increased bond data dissemination as approved by the SEC on January 31, 2003, NASD shall announce a period of one calendar month during which the charge for Level II Full Service Web Browser Access shall be $25 per month, per user ID.]

(B) Computer-to-Computer Interface Access

The charge to be paid by a member that elects to report TRACE data to NASD via a CTCI line shall be $25 per month, per *firm*[line], regardless of whether the line is or is not dedicated exclusively for TRACE.[6] [1]

(C) Third Party Access—Indirect Reporting

A member may elect to report TRACE data indirectly to NASD via third-party reporting intermediaries, such as vendors, service bureaus, or the National Securities Clearing Corporation (''NSCC''). The charge to be paid by a

member shall be $25 per month, per firm. Nothing in this Rule shall prevent such third-party intermediaries from charging additional fees for their services.

(2) *Transaction Reporting Fees.* For each transaction in corporate bonds that is reportable to NASD pursuant to the Rule 6200 Series, the following charges shall be assessed against the member responsible for reporting the transaction:

(A) Trade Reporting Fee

[(i) For the period commencing July 1, 2002 and ending December 31, 2002, a member shall be charged a Trade Reporting Fee based upon a sliding scale ranging from $0.50 to $2.50 per transaction based on the size of the reported transaction. Trades up to and including $200,000 par value will be charged a $0.50 fee per trade; trades between $201,000 par value and $999,999 par value will be charged a fee of $0.0025 multiplied by the number of bonds traded per trade; and trades of $1,000,000 par value or more will be charged a fee of $2.50 per trade.]

[(ii) For the period commencing January 1, 2003 and ending January 31, 2004, a]*A* member shall be charged a Trade Reporting Fee based upon a sliding scale ranging from $0.475 to $2.375 per transaction based on the size of the reported transaction. Trades up to and including $200,000 par value will be charged a $0.475 fee per trade; trades between $201,000 par value and $999,999 par value will be charged a fee of $0.002375 multiplied by the number of bonds traded per trade; and trades of $1,000,000 par value or more will be charged a fee of $2.375 per trade.

(B) Cancel or Correct Trade Fee

[For the period commencing July 1, 2002 and ending December 31, 2002, a member shall be charged a Cancel or Correct Trade Fee of $3.00 per canceled or corrected transaction. To provide firms with time to adjust to the new reporting system, the Cancel or Correct Trade Fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE. For the month of October 2002, the Cancel or Correct Trade Fee shall be $1.50 per canceled or corrected transaction. For the month of November 2002, the Cancel or Correct Trade Fee shall be $2.25 per canceled or corrected transaction. For the period commencing January 1, 2003 and ending January 31, 2004, a]*A* member shall be charged a Cancel or Correct Trade Fee of $1.50 per canceled or corrected transaction.

(C) ''As of'' Trade Late Fee

[For the period commencing July 1, 2002 and ending December 31, 2002, a]*A* member shall be charged an ''As of'' Trade Late Fee of $3.00 per transaction for those transactions that are not timely reported ''As of'' as required by these rules. [To provide firms with time to adjust to the new reporting system, the ''As of'' Trade Late Fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE. For the month of October 2002, the ''As of'' Trade Late Fee shall be $1.50 per such transaction. For the month of November 2002, the ''As of'' Trade Late Fee shall be $2.25 per such transaction. For the period commencing January 1, 2003 and ending January 31, 2004, a member shall be charged an ''As of'' Trade Late Fee of $3.00 per canceled or corrected transaction.]

[(D) Browse and Query Fee

Members may review their own previously reported transaction data through a Browse and Query function. A member shall be charged $0.05 for each returned page of the query beyond the first page.]

(3) Market Data Fees

Professionals and non-professionals may subscribe to receive *R*[r]eal-*T*[t]ime *and Delayed-Time* TRACE data disseminated by NASD in one or more of the following ways for the charges specified. Members, vendors and other redistributors shall be required to execute appropriate agreements with NASD.

(A) Professional Fees. Professionals may subscribe for the following:

(i) Bond Trade Dissemination Service (''BTDS'') Professional *Real-Time Data* Display Fee of $60 per month, per terminal charge for each interrogation or display device receiving *R*[r]eal-*T*[t]ime TRACE transaction data. [Notwithstanding the above sentence, following the effective date of increased bond data dissemination as approved by the SEC on January 31, 2003[7], NASD shall announce a period of one calendar month during which NASD shall waive the $60 per terminal, per month charge.]

(ii) *BTDS Professional Delayed-Time Data Display Fee of $15 per month, per terminal charge for each interrogation or display device receiving Delayed-Time TRACE transaction data; provided, that subscribers to the BTDS Professional Real-Time Data Display Fee described above shall not be charged this additional fee. Subject to the execution of appropriate agreements with NASD, certain summary market information of Delayed-Time TRACE transaction data may be published or distributed by newspapers, press associations, newsletters, or similar media sources without charge.*

(iii) BTDS Internal Usage Authorization Fee of $500 per month, per application/service [charge] for internal dissemination of *R*[r]eal-*T*[t]ime *and/or Delayed-Time* TRACE transaction data used in one or more of the following ways *in a single application/service*: internal operational and processing systems, internal monitoring and surveillance systems, internal price validation, internal portfolio valuation services, internal analytical programs leading to purchase/sale or other trading decisions, and other related activities.[8],[2]

(iv) BTDS External Usage Authorization Fee of $1,000 per month, per application/service [charge] for dissemination of *R*[r]eal-*T*[t]ime *and/or Delayed-Time* TRACE transaction data used in one or more of the following ways *in a single application/service*: repackaging of market data for delivery and dissemination outside the organization, such as indices or other derivative products.[9],[3]

(B) Non-Professional Fees

The charge to be paid by a non-professional for each terminal receiving all or any portion of *R*[r]eal-*T*[t]ime TRACE transaction data disseminated through TRACE shall be $1.00 per month, per terminal.

(C) *Definitions*

(i) ''Delayed-Time'' as used in Rule 7010(k)(3) shall mean that period of time starting four hours after the time of dissemination by NASD of transaction data on a TRACE-eligible security, and ending at 11:59:59 p.m. Eastern Time that calendar day.

(ii) ''Non-Professional''—A non-professional subscriber must provide certain information to NASD and shall receive TRACE market data primarily for his or her personal, non-commercial use. As used in Rule 7010(k)(3) [A],[a] ''non-professional'' is a natural person who is neither:

(a) registered nor qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association*, or an employee of the above who uses such information primarily for business-related activities*; [or]

(b) engaged as an ''investment adviser'' as that term is defined in section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act),

or an employee of the above who uses such information primarily for business-related activities;

(c) employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; *or*

(d) engaged in, or has the intention to engage in, any redistribution of all or any portion of the information disseminated through TRACE.

(iii) ''Real-Time'' as used in Rule 7010(k)(3) shall mean that period of time starting from the time of dissemination by NASD of transaction data on a TRACE-eligible security, and ending no more than four hours thereafter.

(D) Other Requests for Data

NASD may impose and collect charges for data NASD supplied upon request, where there is no provision elsewhere in this Rule 7010(k) for charges for such service or sale.

[6][1] The charges that may be imposed by third parties, such as CTCI line providers, are not included in these fees.

[7] [On January 31, 2003, the SEC approved amendments to NASD Rule 6250 of the TRACE rules that will allow NASD to begin disseminating transaction information on more than 4,000 qualifying Investment Grade corporate debt securities. *See* Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR–NASD–2002–174).]

[8][2] Under this service, *R*[r]eal-*T*[t]ime *and/or Delayed-Time* TRACE transaction data may not be used in any interrogation display devices, any systems that permit end users to determine individual transaction pricing[in real-time], or disseminated to any external source.

[9][3] Under this service, *R*[r]eal-*T*[t]ime *and/or Delayed-Time* TRACE transaction data may not be used in any interrogation display devices or any systems that permit end users to determine individual transaction pricing[in real-time].

* * * * *

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

NASD is proposing the rule change to establish a permanent fee structure for the TRACE system. TRACE became effective on July 1, 2002. At such time, the Commission approved the original fee structure for TRACE on a pilot basis. Since then, NASD staff has been committed to reassessing the TRACE fee structure based on actual information collected such as the number of participants, debt securities transaction volume, and subscribers for transaction data. During the last fourteen months, in response to industry concerns and emerging trends, NASD staff has revised the TRACE fee structure five times. Following more than a year of reassessment of the originally approved TRACE fees, NASD believes the fees are reasonable and necessary to ensure recovery of developmental costs of the TRACE system, fund ongoing operational costs, and fund the regulatory activities necessary for surveillance of the market. NASD believes the proposed rule change will equitably distribute the costs to participants of the TRACE system. While NASD is seeking permanent approval of the TRACE fees, NASD remains committed to periodically reassessing the appropriateness of TRACE fees.

Background

In 1998, former SEC Chairman Arthur Levitt requested NASD to provide increased transparency in, and better surveillance of, the corporate debt market by (i) requiring that NASD members report corporate bond transactions to NASD; (ii) developing a system or systems to surveill the corporate debt market, including an audit trail of reported transactions; and (iii) delivering price and other information to large and small investors and other debt market participants. At that time, NASD began to develop TRACE and make it operational.

On June 28, 2002, the SEC approved proposed NASD fees relating to the operation of the TRACE system (Rule 7010(k)) on a pilot basis for a six-month period expiring on December 28, 2002.[4] As part of that rule filing (Amendment No. 3 to SR–NASD–2002–63), NASD committed to review and reassess the proposed TRACE fees as soon as practicable and within six months after the effective date of TRACE.

On November 15, 2002 NASD filed, for immediate effectiveness, a rule filing to reduce certain TRACE fees for the 4th quarter of 2002.[5] On December 16, 2002, NASD filed for immediate effectiveness, a rule filing to extend the pilot program for TRACE fees to February 28, 2003 and modify certain fees effective January 1, 2003.[6] On February 27, 2003, NASD filed, for immediate effectiveness, a rule filing to extend the pilot program for TRACE fees to June 30, 2003.[7] On June 17, 2003 NASD filed, for immediate effectiveness, a rule filing to extend the pilot for TRACE fees to January 31, 2004.[8]

Operational Information

Since TRACE reporting began on July 1, 2002, approximately 1,800 NASD member firms have registered for TRACE reporting. Currently, approximately 28,000 corporate debt issues are subject to TRACE reporting requirements. Dissemination, however, currently occurs for approximately 4,700 of these corporate debt issues as TRACE transaction data is being disseminated in phases.[9] In January 2001, the Commission initially approved ''Phase I'' dissemination of TRACE transaction data.[10] On the first day of ''Phase I'' dissemination (July 1, 2002), approximately 550 corporate bonds became subject to dissemination.[11] In January 2003, the

[4] The Commission approved Rule 7010(k) relating to TRACE fees on June 28, 2002 on a six-month pilot basis. *See* Securities Exchange Act Release No. 46145 (June 28, 2002), 67 FR 44911 (July 5, 2002) (File No. SR–NASD–2002–63).

[5] *See* Securities Exchange Act Release No. 46893 (November 22, 2002), 67 FR 72008 (December 3, 2002) (File No. SR–NASD–2002–167).

[6] *See* Securities Exchange Act Release No. 47056 (December 19, 2002), 67 FR 79205 (December 27, 2002) (File No. SR–NASD–2002–176).

[7] *See* Securities Exchange Act Release No. 47444 (March 4, 2003), 68 FR 11602 (March 11, 2003) (File No. SR–NASD–2003–25).

[8] *See* Securities Exchange Act Release No. 48110 (July 7, 2003), 68 FR 40315 (June 30, 2003) (File No. SR–NASD–2003–97).

[9] NASD continues to review proposals to increase the number of TRACE-eligible securities that will be subject to dissemination.

[10] Specifically, under Rule 6250, transactions in two types of securities were subject to the TRACE dissemination requirements that took effect on July 1, 2002: (1) Those transactions in a TRACE-eligible security having an initial issuance size of $1 billion or greater that is Investment Grade at the time of receipt of the transaction report as set forth in Rule 6250(a)(1); and (2) those transactions in 50 TRACE-eligible debt securities that are actively traded, rated Non-Investment Grade, and meet other criteria set forth in Rule 6250(a)(2). See Securities Exchange Act Release No. 46144 (June 28, 2002), 67 FR 44907 (July 5, 2002) (File No. SR–NASD–2002–46).

[11] This group of bonds includes what was previously referred to as the FIPs 50 and which are now referred to as the TRACE 50. The list of 50

Commission approved ''Phase II'' dissemination of TRACE transaction data.[12] On the first day of ''Phase II'' dissemination (March 3, 2003), an additional approximately 3,800 corporate bonds became subject to dissemination, and on April 14, 2003, an additional approximately 120 triple-B-rated corporate bonds were also disseminated as part of ''Phase II.''[13] In addition, in June 2003, reporting time for transactions in TRACE-eligible securities was reduced from 75 minutes to 45 minutes effective as of October 1, 2003.[14] In July 2003, the disseminated list of high-yield bonds referred to as the ''TRACE 50'' was updated.[15]

Since the launch of TRACE, NASD has enhanced the system with two major and five minor software releases in response to user needs, conducted routine monitoring of daily reported transaction data for accuracy, and undertaken regulatory activities to surveill the corporate debt market. TRACE incurs ongoing operating costs associated with shared NASD infrastructure and resources as well as direct charges from outsourcing TRACE system support and development. Additionally, TRACE is supported by a dedicated team of NASD staff. For the first twelve months of operation (period ending June 30, 2003), these expenses have totaled approximately $12.4 million including partial recovery of the original investment made in the development of TRACE.[16]

As detailed in this filing, revenues are derived from a combination of System Fees to access TRACE, Transaction Reporting Fees for trade reporting, and Market Data Fees for access and display of aggregated TRACE data. For the first twelve months of operation (period ending June 30, 2003), TRACE generated revenues of approximately $12.4 million reflecting approximately $2.0 million, $8.9 million, and $1.5 million for System Fees, Transaction Reporting Fees, and Market Data Fees, respectively.

The proposed fees are also divided into the same three general categories: (1) System fees paid by member firms based on the technology method chosen by the member to report corporate bond transactions; (2) transaction reporting fees paid by members to file trade reports and cancel or correct trade reports; and (3) market data fees paid by members and non-members that use or distribute the data collected through the TRACE system and disseminated by NASD. NASD is hereby seeking permanent approval of the fees relating to the TRACE system. However, NASD remains committed to reviewing and reassessing TRACE fees over time.

System Fees

A member may report TRACE transaction data to NASD by one of three approved methods: (1) Web browser access; (2) direct computer-to-computer interface (''CTCI''); or (3) indirectly through third-parties, such as vendors, service bureaus, clearing firms, or the National Securities Clearing Corporation. The member determines the reporting method they would like to use based on such factors as volume, size, and cost.

Web Browser Access Fees

In response to requests from the industry, in January 2003, NASD introduced a modified web browser and adjusted the fees accordingly.[17] The modified web browser separated reporting capabilities from query features that allow access to TRACE transaction data. NASD began offering two web browser service levels on January 1, 2003: (1) Level I Trade Report Only Web Browser access permits a member to report TRACE transaction data to NASD over the internet, but does not allow access to real-time TRACE data, and (2) Level II Full Service Web Browser access permits reporting of TRACE transaction data to NASD over the internet and allows access to real-time transaction data through a query function. The original charge for Level I service is $25 per month, per user ID, and the charge for Level II service is $85 per month, per user ID.

NASD is proposing to reduce the Level I charge from $25 per month, per user ID, to $20 per month, per user ID, and to reduce the Level II charge from $85 per month, per user ID, to $80 per month, per user ID. The modified web browser allows participants to satisfy their reporting obligations to NASD at a base level cost of $20 per month, per user ID. Participants that wish to have access to additional services such as real-time data query, pay $80 per month, per user ID. In this way, NASD believes that cost of delivering this service will be more equitably distributed to members that directly use this additional technology for their business.

In March 2003, NASD submitted a rule filing to the Commission proposing to (1) temporarily reduce the Level I Full Service Web Browser Access Fee, and (2) temporarily waive the BTDS Professional Real-Time Data Display Fee for a one-month period to be announced by NASD. NASD originally sought these temporary reductions to provide subscribers a ''trial month'' to explore the services. However, third-party vendors have raised concerns with NASD staff that the imposition of one ''trial month'' will be difficult for them to administer and may not have the desired effect of bringing on new TRACE data subscribers. Therefore, NASD is proposing to eliminate these temporary reductions.

CTCI Fees and Third-Party Vendor Fees

The charge for CTCI service and for reporting data through third-party vendors will remain the same—$25 per month. NASD had originally provided participants the option of reporting TRACE data to NASD through a secure, private data network. However, no subscribers registered for this service and in a rule filing submitted to the SEC on December 16, 2002, NASD proposed to eliminate this service and the corresponding fee as of January 1, 2003. NASD proposes to make this change permanent.

NASD believes that the TRACE system fees are reasonable and non-discriminatory because members may select the technology link that best suits their particular needs. The Web Browser Access Fees have been significantly

bonds is updated periodically based on criteria identified in Rule 6250(a)(2).

[12] In ''Phase II'' NASD began to disseminate transaction information on two additional categories of securities. On March 3, 2002, NASD began to disseminate transaction information on any TRACE-eligible security that is Investment Grade; is rated by Moody's Investors Service, Inc. as ''A3'' or higher, and by Standard & Poor's, a division of McGraw Hill Co., Inc., as ''A−'' or higher; 5 and has an original issue size of $100 million or greater. In addition, a security that is required to be disseminated under the criteria above, on or after the effective date of this provision, will continue to be subject to dissemination unless the security is downgraded below ''Baa3/BBB. A specified group of TRACE-eligible securities rated Baa/BBB, at the time of designation, were also approved for dissemination by the SEC. Originally, 90 securities were designated. *See* Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR–NASD–2002–174). However, in March 2003, NASD proposed to increase the number of ''triple-B-rated'' securities to approximately 120. *See* Securities Exchange Act Release No. 47566 (March 25, 2003), 68 FR 15490 (March 31, 2003) (File No. SR–NASD–2003–41). The 120 ''triple-B-rated'' securities were designated after the SEC approved SR–NASD–2003–41, and transaction information on the designated securities began to be disseminated on April 14, 2003.

[13] *See* Securities Exchange Act Release No. 47566 (March 25, 2003), 68 FR 15490 (March 31, 2003) (File No. SR–NASD–2003–41).

[14] *See* Securities Exchange Act Release No. 48056 (June 18, 2003), 68 FR 37886 (June 25, 2003) (File No. SR–NASD–2003–78).

[15] The list of TRACE 50 bonds is updated periodically based on criteria identified in Rule 6250(a)(2).

[16] Under this approach the original investment costs are recovered over a 48-month period.

[17] *See* Securities Exchange Act Release No. 47056 (December 19, 2002), 67 FR 79205 (December 27, 2002) (File No. SR–NASD–2002–176).

modified from the original level established in July 2002.[18] Firms that have a smaller volume of TRACE transactions now have a cost-effective reporting option (*e.g.*, Level I Trade Report Web Browser). Larger volume firms have generally been reporting TRACE transaction data either through a CTCI line at a charge of $25 per month, or through third-parties at a charge of $25 per month.

Transaction Reporting Fees

Trade Reporting Fees

Following the start of operations of TRACE, NASD staff has been collecting data on trade reporting fees incurred by participants. The revenues generated by this fee were higher than originally forecasted. As a result, as of January 1, 2003, NASD reduced trade reporting fees by 5% from the original fee levels.[19] NASD seeks permanent approval of the reduced trade reporting fees. Trade Reporting Fees will continue to be on a sliding scale, based upon the size of the transaction reported, in an effort to distribute the fees more equitably between retail oriented firms and institutionally oriented firms.[20] The range for trade reporting fees will be from $0.475 to $2.375 per transaction based on the size of the reported transaction. Trades up to and including $200,000 par value will be charged a $0.475 fee per trade; trades between $201,000 par value and $999,999 par value will be charged a fee of $0.002375 multiplied by the number of bonds traded, and trades of $1,000,000 par value or more will be charged a fee of $2.375 per trade.

Corrective Transaction Fees

NASD proposes to set the permanent Cancel or Correct Fee at $1.50 per corrected trade and the ''As of'' Trade Late reporting fee at $3.00 per late trade. Cancel, correct, and ''As of'' transactions are used by participants to modify original trade entries. While a certain level of corrective transactions will always be necessary, NASD staff believes it is very important that trades be entered into the system correctly the first time to ensure that data disseminated through the TRACE system is accurate and to allow investors to rely on the data stream they receive. Further, continued high levels of corrective transactions will increase NASD's technology costs.

The original charge for the Cancel or Correct Fee and the ''As of'' Late Fee was $3.00 for each such reported transaction. However, in the original fee proposal, NASD delayed the effectiveness of the Cancel or Correct Fee and the ''As of'' Late Fee to October 1, 2002. Based on NASD staff review of the data collected on such fees after the first three months of TRACE operation, on November 15, 2002, NASD submitted a proposed rule change to the SEC to phase in the implementation of the two fees during the last quarter of 2002 to allow participants greater time to adjust to the new system and focus on methods to reduce the likelihood of incurring such fees.[21] For the month of October 2002, the Cancel or Correct Fee and the ''As of'' Late Fee charge assessed to each participant were reduced from $3.00 per trade to $1.50 per trade (a 50% discount), and for the month of November 2002, the Cancel or Correct Fee and the ''As of'' Late Fee were reduced from $3.00 per trade to $2.25 per trade (a 25% discount). On December 16, 2002, NASD submitted a rule filing to reduce the Cancel or Correct Fee from $3.00 to $1.50 effective January 1, 2003.

NASD staff has been working with the industry to determine the causes of erroneous transactions as part of a goal of reducing the number of corrective transactions reported to TRACE. NASD staff believes that over time the number of corrective transactions submitted to the system will decline. However, NASD believes that fees for corrective transactions are necessary to discourage erroneous reporting and to improve the integrity of disseminated data. Therefore, NASD is proposing that the SEC permanently approve the current corrective transaction fees.

Browse and Query Fees

NASD is proposing to eliminate the Browse and Query Fee of $0.05 per page after the first page. This feature allows firms to review previously reported transaction data. Firms will continue to have access to this service, however, there will no longer be a fee associated with such service.

Market Data Fees

The current market data fees are as follows: (1) BTDS Professional Real-Time Data Display Fee—$60 per month, per terminal; (2) BTDS Internal Usage Authorization Fee—$500 per month, per application/service; (3) BTDS External Usage Authorization Fee—$1,000 per month, per application/service; and (4) BTDS Non-Professional Real-Time Fee—$1 per month, per terminal.

NASD is proposing to define the terms ''Real-Time'' and ''Delayed-Time'' as they relate to market data fees for TRACE transaction data. ''Real-Time'' as used in Rule 7010(k)(3) shall mean that period of time starting from the time of dissemination by NASD of transaction data on a TRACE-eligible security, and ending four hours thereafter. ''Delayed-Time'' as used in Rule 7010(k)(3) shall mean that period of time starting four hours after the time of dissemination by NASD of transaction data on a TRACE-eligible security, and ending at 11:59:59 p.m. Eastern Time that calendar day.

In addition, NASD is proposing to establish a charge to professionals for the use of Delayed-Time TRACE transaction data. Discussions with members of the bond industry indicate that there is increasing demand for Delayed-Time TRACE transaction data by professionals. Market professionals have indicated to NASD staff that, as a result of relatively low individual bond trading activity levels on any given day, Delayed-Time transaction data is useful to see overall patterns and trends, especially in pricing. Because of the time lag between trades in less active issues often exceeds four hours, the value of the last sale information on a four hour Delayed-Time basis often equals that of the real-time information. NASD staff believes that professionals who use this data in the course of their business or commercial activities should pay for the use of the data. Consequently, NASD staff believes that a charge for professionals for Delayed-Time data is appropriate.

The fee for the BTDS Professional Delayed-Time Data Display would be $15 per month, per terminal, for each device receiving Delayed-Time TRACE

[18] In the original fee approval order, the Web Browser Access Fee for each registered participant was: $85 per month, per user ID, for the first user ID; $75 per month for the second through ninth user ID; and $70 per month for the second through tenth or more user ID, if the participant registers ten or more user IDs. For the fourth quarter of 2002, the Web Browser Access Fee was reduced to $25 per month, per user ID for participants that reported less than 25 transactions during the months of October, November, and December 2002.

[19] The original Trade Reporting Fees were also based on a sliding scale that ranges from $0.50 to $2.50 per transaction based on the size of the reported transaction. Trades up to and including $200,000 par value are charged a $0.50 fee per trade; trades between $201,000 par value and $999,999 par value are charged a fee of $0.0025 multiplied by the number of bonds traded; and trades of $1,000,000 par value or more are charged a fee of $2.50 per trade.

[20] In approving the original TRACE fees on a pilot basis, the Commission stated that ''[t]he Commission believes that this sliding scale structure promotes an equitable distribution of the relevant fees while reducing the possibility of unfair discrimination between customers, issuers, brokers, or dealers.'' *See* SEC Approval Order File No. SR–NASD–2002–63, Securities Exchange Act Release No. 46145 (June 28, 2002).

[21] *See* SR–NASD–2002–167 (November 15, 2002).

transaction data.[22] Professionals subscribing for the BTDS Professional Real-Time Data Display Fee of $60 per month, per terminal, to receive Real-Time TRACE transaction data would not pay this charge for Delayed-Time data in addition to the $60 fee for Real-Time data. Subject to the execution of appropriate agreements with NASD, certain summary market information of Delayed-Time TRACE transaction data may be published or distributed by newspapers, press associations, newsletters, or similar media sources without charge. NASD is also proposing to clarify that charges for BTDS Internal Usage and BTDS External Usage apply to Real-Time and/or Delayed-Time TRACE transaction data.

In addition, NASD proposes to clarify the definition of ''non-professional.'' Since the start of TRACE, numerous individuals have questioned whether they qualify as a ''non-professional.'' To clear up confusion, NASD is proposing to add language to the definition to state that a natural person can qualify as a ''non-professional'' only if they receive TRACE market data primarily for personal, non-commercial use.

In the original fee proposal, NASD had provided for a daily list fax service that would provide subscribers with daily additions, deletions, and modifications to the list of TRACE-eligible securities. The charge for this service was $15 per month, per fax number/addressee. One user subscribed for this service and it was no longer cost effective for NASD to continue providing the service. As a result, NASD proposed in a rule filing submitted to the SEC on December 16, 2002 to eliminate this service and the corresponding fee as of January 1, 2003.[23] NASD proposes to make this change permanent.

NASD believes the market data fees are reasonable and non-discriminatory. The fees are charged only to market professionals that wish to subscribe for these optional services. NASD believes that this use-based approach appropriately aligns costs with member usage and is consistent with equitable distribution of fees.

Other Requests for Data

From time to time, members, vendors, and other persons request certain ad hoc services or uses of the TRACE system and transaction data that are not otherwise covered by Rule 7010(k). NASD believes that providing such services to the industry, academia, or others is useful and proposes to collect charges when fulfilling these requests. Charges would be commensurate with the higher of (a) NASD's associated costs or (b) similar products or services available in the marketplace.

Permanent Approval of Fees

NASD is seeking permanent approval of the TRACE fee structure prior to the expiration of the pilot program for TRACE fees that is scheduled to expire on January 31, 2004. NASD believes that the proposed fee structure for TRACE is reasonable and non-discriminatory. In its original approval of the TRACE fees pilot, the Commission stated that it believes that the fees allow users great flexibility in how they will interact with the system, and are scaled according to objective criteria applied across-the-board to all categories of users.[24]

NASD believes the fee structure is equitable and the charges are based on actual usage of the system. For example, trade reporting fees are based on a sliding scale that varies depending on the size of the transaction reported, with fees ranging from $0.475 (for the smallest trades) to $2.375 (for the largest trades). System fees allow participants to select the most cost-effective reporting method and web browser fees are based on usage (users of the real-time transaction query feature pay more for the additional service). Similarly, market data fees are lower for users who limit their use of the TRACE transaction data to internal distribution, and relatively higher for users who use or distribute the data externally.

For these reasons, NASD believes the fees set forth above are reasonably related to the costs of developing the facility and to meeting the estimated operating expenses of the TRACE system. The fees are also designed to fund the regulatory activities necessary to surveil the market. In addition, NASD staff believes that it has responded promptly to the concerns of members by reducing TRACE fees.

As part of the initiative by the Commission to create price transparency in the corporate bond market, the NASD has worked diligently to develop the TRACE system. NASD staff continues to work closely with the Bond Transaction Reporting Committee, which is jointly staffed by members designated by NASD and The Bond Market Association. In addition, NASD staff has met formally and informally with members of the industry and listened to their questions and concerns. Overall, NASD believes the TRACE fee structure is reasonable and non-discriminatory, and that the proposed fees are necessary to achieve a practical, market-driven system for processing and disseminating reliable and uniform corporate bond data. NASD is committed to taking a proactive role in supervising the corporate bond market and promoting investor confidence in the fairness of the corporate bond market generally.

NASD remains committed to reviewing and reassessing the appropriateness of TRACE fees over time to ensure that the fees are reasonable and equitable for participants in the TRACE system.

Based on the above, the NASD believes the proposed rule change is consistent with the provisions of section 15A(b)(5)[25] of the Act in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among members and other persons using any facility or system which the association operates or controls.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[26], 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. In addition, NASD believes that the proposed rule change is consistent with section 15A(b)(5) of the Act, which requires, among other things, that NASD's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that NASD operates or controls. NASD is seeking permanent approval of the TRACE fee structure and believes that the proposed fee structure is reasonable.

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.

[22] Transaction data for TRACE-eligible securities disseminated by NASD after this time frame will be provided free of charge.

[23] *See* Securities Exchange Act Release No. 47056 (December 19, 2002), 67 FR 79205 (December 27, 2002)(File No. SR–NASD–2002–176).

[24] *See* SEC Approval Order File No. SR–NASD–2002–63, Securities Exchange Act Release No. 46145 (June 28, 2002).

[25] 15 U.S.C. 78o–3(b)(5).

[26] 15 U.S.C. 78o–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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 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 NASD. All submissions should refer to file number SR-NASD–2003–157 and should be submitted by November 25, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–27661 Filed 11–3–03; 8:45 am]

BILLING CODE 8010–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48711; File No. SR–NASD–2003–153]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Waiver of California Arbitrator Disclosure Standards

October 29, 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 October 6, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''), 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 Dispute Resolution. 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

NASD is proposing to amend the pilot rule in IM–10100(f) of the NASD Code of Arbitration Procedure, which requires industry parties in arbitration to waive application of contested California arbitrator disclosure standards, to include claims by members against other members or associated person that relate exclusively to promissory notes. Below is the text of the proposed rule change. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

10000. Code of Arbitration Procedure

IM–10100. Failure To Act Under Provisions of Code of Arbitration Procedure

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2110 for a member or a person associated with a member to:

(a)–(e) No change.

(f) fail to waive the California Rules of Court, Division VI of the Appendix, entitled, ''Ethics Standards for Neutral Arbitrators in Contractual Arbitration'' (the ''California Standards''), if [all the parties in the case who are customers, or associated persons with a claim against a member firm or another associated person, have waived application of the California Standards in that case.] *application of the California Standards has been waived by all parties to the dispute who are:*

(1) Customers with a claim against a member or an associated person;

(2) associated persons with a claim against a member or an associated person;

(3) members with a claim against another member; or

(4) members with a claim against an associated person that relates exclusively to a promissory note.

[The w]*W*ritten waiver by [the customer or the associated person asserting the claim against a member or associated person under the Code] *such parties* shall constitute and operate as a waiver for all member firms or associated persons against whom the claim has been filed. This rule applies to claims brought in California against all member firms and associated persons, including terminated or otherwise inactive member firms or associated persons. Remainder unchanged.

* * * * *

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

NASD is proposing to amend the pilot rule in IM–10100(f) that requires industry parties in arbitration to waive application of contested California arbitrator disclosure standards to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

include claims by members against other members or associated person that relate exclusively to promissory notes.

Background

In July 2002, the California Judicial Commission adopted a set of rules, ''Ethics Standards for Neutral Arbitrators in Contractual Arbitration'' (''California Standards''),[4] governing ethical standards for arbitrators. The rules were designed to address conflicts of interest in private arbitration forums that are not part of a federal regulatory system overseen on a uniform, national basis by the SEC. The California Standards imposed disclosure requirements on arbitrators that conflict with the disclosure rules of NASD and the New York Stock Exchange (''NYSE''). Because NASD could not both administer its arbitration program in accordance with its own rules and comply with the new California Standards at the same time, NASD initially suspended the appointment of arbitrators in cases in California, but offered parties several options for pursuing their cases.[5]

In November 2002, NASD and NYSE filed a lawsuit in federal district court seeking a declaratory judgment that the California Standards are inapplicable to arbitration forums sponsored by self-regulatory organizations (''SROs'').[6] That litigation is currently pending on appeal. Since then, other lawsuits relating to the application of the California Standards to SRO-sponsored arbitration have been filed, several of which are also still pending.

To allow arbitrations to proceed in California while the litigation is pending, NASD implemented a pilot rule to require all industry parties (member firms and associated persons) to waive application of the California Standards to the case, if all the parties in the case who are customers, or associated persons with claims against industry parties, have done so.[7] In such cases, the arbitration proceeds under the NASD Code of Arbitration Procedure, which already contains extensive disclosure requirements and provisions for challenging arbitrators with potential conflicts of interest.[8]

The pilot rule, which was originally approved for six months on September 26, 2002, has been extended, and is now due to expire on March 31, 2004.[9]

Description of Proposed Rule Change

The pilot rule currently applies to all claims filed by customers, and to claims filed by associated persons against members or other associated persons. The proposed rule change would extend the pilot rule to apply to claims filed by members against other members, and to claims filed by members against associated persons that relate exclusively to promissory notes.

Specifically, the proposed rule change would amend IM–10100(f) to provide that if a member bringing a claim against another member, or a claim against an associated person that relates exclusively to promissory notes, waives application of the California Standards to the dispute, then the industry respondents will also be deemed to have waived the application of the Standards.[10] This rule change will allow to proceed the majority of the remaining intra-industry cases that are currently stalled due to the confusion surrounding the California Standards. It will also prevent delay in such cases that are filed in the future, and will facilitate the administration of cases against such parties in California while the rule is in effect. NASD proposes to make the proposed rule change, which will apply to pending and future arbitrations, operative immediately upon filing.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[11] 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 by expediting the appointment of arbitrators under the waiver, the proposed rule change will allow affected parties to pursue their contractual rights to proceed in arbitration in California, notwithstanding the confusion caused by the disputed California Standards.

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

NASD has designated the proposed rule change as one that: (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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. Therefore, the foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.

Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[14] the proposal may not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent

[4] California Rules of Court, Division VI of the Appendix, entitled, ''Ethics Standards for Neutral Arbitrators in Contractual Arbitration'' (the ''California Standards'').

[5] These measures included providing venue changes for arbitration cases, using non-California arbitrators when appropriate, and waiving administrative fees for NASD-sponsored mediations.

[6] See Motion for Declaratory Judgment, *NASD Dispute Resolution, Inc. and New York Stock Exchange, Inc.* v. *Judicial Council of California,* filed in the United States District Court for the Northern District of California, No. C 02 3486 SBA (July 22, 2002), available on the NASD Web site at: *http://www.nasdadr.com/pdf-text/072202_ca_complaint.pdf.*

[7] Originally, the pilot rule only applied to claims by customers, or by associated persons asserting a statutory employment discrimination claim against a member, and required a written waiver by the industry respondents. In July 2003, NASD expanded the scope of the pilot rule to include all claims by associated persons against another associated person or a member. At the same time, the rule was amended to provide that when a customer, or an associated person with a claim against a member or another associated person, agrees to waive the application of the California Standards, all respondents that are members or associated persons will be deemed to have waived the application of the standards as well. The July 2003 amendment also clarified that the pilot rule applies to terminated members and associated persons. *See* Securities Exchange Act Rel. No. 48187 (July 16, 2003), 68 FR 43553 (July 23, 2003) (File No. SR–NASD–2003–106).

[8] The NYSE has a similar rule; Rule 600(g).

[9] *See* Securities Exchange Act Rel. No. 48553 (September 26, 2003), 68 FR 57494 (October 3, 3003) (File No. SR–NASD–2003–144).

[10] The proposed rule change would include disputes that relate exclusively to promissory notes. It would not apply in cases that involve both promissory notes and other types of claims that do not already fall within the scope of the rule.

[11] 15 U.S.C. 78o–3(b)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

with the protection of investors and the public interest, and the self-regulatory organization must file notice of its intent to file the proposed rule change at least five business days beforehand. NASD has requested that the Commission waive the five-day pre-filing requirement and the 30-day operative delay so that the proposed rule change will become immediately effective upon filing.

The Commission believes that waiving the five-day pre-filing provision and the 30-day operative delay is consistent with the protection of investors and the public interest.[15] The Commission believes that waiving the pre-filing requirement and accelerating the operative date should have no negative effect on the protection of investors, and should further the public interest by immediately providing members that have claims against other members, or claims against associated persons that relate exclusively to promissory notes, with a mechanism to resolve their disputes. During the period of this pilot program, the Commission and NASD will continue to monitor the status of the previously discussed litigation. For these reasons, the Commission designates that the proposed rule change as effective and operative immediately.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–153 and should be submitted by November 25, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–27662 Filed 11–3–03; 8:45 am]

BILLING CODE 8010–01–P

[15] 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).

[16] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Department of the Treasury, Bureau of Public Debt (BPD))—Match Number 1038

AGENCY: Social Security Administration (SSA).

ACTION: Notice of the renewal of an existing computer matching program which is scheduled to expire on December 25, 2003.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces the renewal of an existing computer matching program that SSA is currently conducting with BPD.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: October 3, 2003.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) With the Department of the Treasury, Bureau of Public Debt (BPD)

A. Participating Agencies

SSA and BPD.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions, safeguards and procedures for BPD's disclosure of certain savings security information to SSA. (The term ''savings security'' means Series E, EE or I United States Savings Securities.) SSA will use the match results to verify eligibility and payment amounts of individuals under the Supplemental Security Income (SSI) program. The SSI program was created under title XVI of the Social Security Act (the Act) to provide benefits under the rules of that title to individuals with income and resources below levels established by law and regulations.

C. Authority for Conducting the Matching Program

Sections 1631(e)(1)(B) and (f) of the Act (42 U.S.C. 1383(e)(1)(B) and (f)).

D. Categories of Records and Individuals Covered by the Matching Program

SSA will provide BPD with a finder file extracted from SSA's Supplemental Security Income Record and Special Veterans Benefits system of records containing Social Security numbers of individuals who have applied for or receive SSI payments. This information will be matched with BPD files in BPD's savings-type securities registration systems of records (United States Savings Type Securities and Retail Treasury Securities Access Application) and a reply file of matched records will be furnished to SSA. Upon receipt of BPD's reply file, SSA will match identifying information from the BPD file with SSA's records to determine preliminarily whether the data pertain to the relevant SSI applicant or recipient before beginning the process of verifying savings security ownership and taking any necessary benefit actions.

E. Inclusive Dates of the Matching Program

The matching program will become effective upon signing of the agreement by both parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of this matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 03–27648 Filed 11–3–03; 8:45 am]
BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed Between September 29 and October 24, 2003

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Agreements filed during week ending: October 3, 2003.

Docket Number: OST–2003–16247.
Date Filed: September 29, 2003.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 EUR–J/K 0102 dated September 26, 2003,
PTC23/123 Europe-Japan, Korea, Expedited Resolution 002bv r1.
PTC23 EUR–J/K 0103 dated September 26, 2003,
PTC23/123 Europe-Japan, Korea, Expedited Resolution 002by r2,
Intended effective date: November 1, 2003 and January 1, 2004.

Agreements filed during week ending: October 10, 2003.

Docket Number: OST–2003–16286.
Date Filed: October 6, 2003.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 ME–TC3 0186 dated September 26, 2003,
TC23/TC123 Middle East—TC3 Resolutions r1–r39
Minutes: PTC23 ME–TC3 0187 dated October 3, 2003,
Tables: PTC23 ME–TC3 Fares 0079 dated October 3, 2003,
Intended effective date: April 1, 2004.

Docket Number: OST–2003–16312.
Date Filed: October 10, 2003.
Parties: Members of the International Air Transport Association.
Subject:
PTC31 N&C/CIRC 0251 dated October 10, 2003,
TC31 North and Central Pacific,
TC3 (except Japan)-North America, Caribbean Expedited
Resolutions except between Korea (Rep. of), Malaysia and USA,
PTC31 N&C/CIRC 0252 dated October 10, 2003,
TC31 North and Central Pacific,
TC3–Central America, South America Expedited Resolutions r1–r16,
Intended effective date: December 1, 2003.

Agreements filed during week ending: October 17, 2003.

Docket Number: OST–2003–16325.
Date Filed: October 15, 2003.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 335,
PTC2 EUR–AFR 0182 dated October 14, 2003,
Resolution 042e from Tunisia to Libya,
Intended effective date: November 1, 2003.

Docket Number: OST–2003–16326.
Date Filed: October 15, 2003.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 318,
PTC2 EUR–ME 0175 dated October 17, 2003,
TC2 Europe-Middle East,
Special Passenger Amending Resolution, between Egypt and Greece r1–r5,
Intended effective date: August 15, 2003.

Docket Number: OST–2003–16348.
Date Filed: October 17, 2003.
Parties: Members of the International Air Transport Association.
Subject:
CBPP/12/Meet/004/2003 dated October 2, 2003,
Book of Finally Adopted Resolutions/RPs r1–Reso 600a,
Minutes—CBPP/12/Meet/003/2003 dated October 2, 2003,
Intended effective date: January 1, 2004.

Agreements filed during week ending: October 24, 2003.

Docket Number: OST–2003–16353.
Date Filed: October 20, 2003.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 336, 7PTC COMP 1098 dated October 21, 2003,
Resolutuion 024d–Angola,
Intended effective date: November 10, 2003.

Docket Number: OST–2003–16355.
Date Filed: October 21, 2003.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 EUR–J/K 0104 dated October 3, 2003,
PTC23/123 Europe-Japan, Korea Resolutions r1–r27,
Minutes: PTC23 EUR–J/K 0105 dated October 21, 2003,
Tables: PTC23 EUR–J/K Fares 0052 dated October 3, 2003,
Intended effective date: April 1, 2004.

Docket Number: OST–2003–16358.
Date Filed: October 21, 2003.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 EUR–SEA 0172 dated September 19, 2003,
PTC23/123 Europe-South East Asia Resolutions r1–r15,
Minutes: PTC23 EUR–SEA 0175 dated October 17, 2003,
Tables: PTC23 EUR–SEA Fares 0050 dated September 19, 2003,
Intended effective date: April 1, 2004.

Docket Number: OST–2003–16388.
Date Filed: October 22, 2003.
Parties: Members of the International Air Transport Association.
Subject:

Mail Vote 337,
PTC3 0671 dated October 24, 2003,
Resolution 010z Special Amending Resolution between China (excluding Hong Kong SAR and Macao SAR) and Japan, Thailand r1–r6,
Intended effective date: November 6, 2003.

Docket Number: OST–2003–16400.
Date Filed: October 24, 2003.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 338,
PTC23 ME–TC3 0190 dated October 28, 2003,
Resolution 010a Special Amending Resolution between Middle East and TC3,
Intended effective date: April 1, 2004.

Andrea M. Jenkins,
Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 03–27653 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) Filed With the Department Between October 6, and 24, 2003

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Applications filed during week ending: October 10, 2003.
Docket Number: OST–2003–16284.
Date Filed: October 6, 2003.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 27, 2003.
Description: Application of Bobrel Leasing, Inc., pursuant to 49 U.S.C. Section 41738 and Subpart B, requesting authority to operate scheduled passenger service as a commuter air carrier and proposes to operate service between Lamar, CO and Denver International Airport, with twice daily service Monday through Friday, and once daily service on Saturday and Sunday.

Applications filed during week ending: October 24, 2003.
Docket Number: OST–1997–2516.
Date Filed: October 21, 2003.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 12, 2003.
Description: Application of Continental Airlines, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart B, requesting renewal of its Route 381 certificate authorizing Continental to provide scheduled foreign air transportation of persons, property, and mail between the coterminal points New Orleans, LA; and Houston and Dallas/Ft. Worth, TX; and the coterminal points Maracaibo and Caracas, Venezuela and between Newark, NJ and Caracas, Venezuela, and to combine this authority with its other certificate and exemption authority.

Andrea M. Jenkins,
Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 03–27654 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of denials.

SUMMARY: The FMCSA announces that 77 individuals were denied exemptions from the Federal vision standards applicable to interstate truck drivers and the reasons for the denials. The FMCSA has statutory authority to exempt individuals from vision standards if the exemptions granted will not compromise safety. The agency has concluded that granting these exemptions does not provide a level of safety that will equal or exceed the level of safety maintained without the exemptions for these commercial drivers.

FOR FURTHER INFORMATION CONTACT: Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (MC–PSD), 202–366–2987, Department of Transportation, FMCSA, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the Federal vision standard for a renewable 2-year period if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption. (49 CFR 391.41(b)(10))

Accordingly, FMCSA evaluated 77 individual exemption requests on their merits and made a determination that these applicants do not satisfy the criteria established to demonstrate that granting an exemption is likely to achieve an equal or greater level of safety that exists without the exemption. Each applicant has, prior to this notice, received a letter of final disposition on his/her individual exemption request. Those decision letters fully outlined the basis for the denial and constitute final agency action. The list published today summarizes the agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reason for denials.

The following 44 applicants lacked sufficient recent driving experience over three years:

Atkins, Jr., Eugene
Baysinger, Joseph A.
Blackwell, Deryl C.
Bradford, Michael R.
Brown, Richard
Brown, Thomas D.
Cross, Richard
Diederich, Thomas E.
Doney, John M.
DuBois, Paul E.
Gellerman, Mark W.
Gillis, Reginal
Goucher, Newell D.
Johnson, Kerry
Knaack, John S.
Lydick, Eugene R.
Maples, Frank
McCormick, James M.
McKinney II, Roy J.
Mills, Fred
Murtha, Barry I.
Negulescu, Daniel S.
Palazzolo, Vincent
Parker, Rodney R.
Peck, Gregory A.
Peters, Randy W.
Pryor, Scott A.
Rabalais, Jason A.
Rissler, Wayne R.
Schwarzrock, Steve M.
Silbernagel, Warren T.
Somers, Michael E.
Stambaugh, Gary W.

Stoffel, James E.
Tyler, Mark D.
Walker, Ronald L.
Wallencheck, Ronald J.
Ware, Roy J.
Wells, Bryson
Wilcox, William R.
Wilkinson, Sonya D.
Williams, Michael E.
Wos, Aloysius R.
Yoxall, Slade W.

The following 10 applicants do not have 3 years of experience driving a commercial motor vehicle (CMV) on public highways with the vision deficiency:

Clark, Edgar E.
Dinguss, Kenneth A.
Emerson, Craig M.
Lomison, James E.
Morgan, Tim R.
Roberson, Terry L.
Turner, Emerson J.
Vega, Rudolfo A.
Wojtalik, William
Wollam, Robert J.

The following 5 applicants do not have 3 years recent experience driving a CMV with the vision deficiency:

Carter, Jr., Jerry D.
Hilby, Glen G.
Johnson, Rufus R.
McCabe, William S.
Morgan, Paul

One applicant, Mr. Gayle G. Olson, does not have sufficient peripheral vision in the better eye to qualify for an exemption.

Four applicants' licenses were suspended during the 3-year period because of a moving violation. Applicants do not qualify for an exemption with a suspension during the 3-year period:

Gooden, Sr., Ernest H.
Hyatt, William D.
Keller, Clarence R.
Rodriquez, Erik J.

The following 7 applicants contributed to accidents in which applicants were operating a CMV. Applicants contributing to an accident during the 3-year period are disqualified for an exemption.

Biller, Michael R.
Cameron, George C.
McAlheney, Leland K.
Mero, Garth R.
Paschal, Eddie L.
Sandlin, Dwayne L.
Small, Edward F.

Four applicants do not hold licenses that allow operation of vehicles over 10,000 pounds for all or part of the 3-year period:

Compton, Jeffrey C.
Ives, Bobby J.
Jones, Elmer C.
McKneely, Ellis T.

Finally, 2 applicants, Mr. Juan Aldama and Mr. Zibbie Lee Dawsey were denied vision exemptions for multiple reasons.

Issued on: October 28, 2003.

Pamela M. Pelcovits,

Acting Associate Administrator for Policy and Program Development.

[FR Doc. 03–27608 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Cass Scenic Railroad

[Docket Number FRA–2003–15851]

The Cass Scenic Railroad (Cass) seeks a waiver of compliance from the Inspection and Maintenance Standards for Steam Locomotives, 49 CFR part 230, published November 17, 1999. As stated in section 230.3(c)(1) Petition Process, Petitions for Special Consideration were to have been filed by January 18, 2001. It was to have been accompanied by all relevant documentation for support, including a FRA Form No. 4 that was calculated in accordance with § 230.17 One thousand four hundred seventy-two service day inspection, and all records that demonstrate the number of days the locomotive has been in service.

Cass seeks this waiver for one locomotive, number (Western Maryland) 6, which had the flue tubes replaced in accordance with the requirements of 49 CFR 230.17 and was returned to service in October 1996. At that time, Cass was eligible to file a Petition for Special Consideration because their locomotive was placed into service after the September 25, 1995 cutoff date. However, Cass was not able to verify the FRA Form 4 and supporting calculations until September 18, 2001, thus missing the required January 18, 2001 filing date. The locomotive was removed from service having only used 930 service days and has remained out of service. Therefore, Cass seeks a waiver from the January 18, 2001 filing date for their Petition for Special Consideration.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2003–15851) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room Pl–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room Pl–401 (Plaza Level), 400 Seventh Street, SW., Washington. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC, on October 30, 2003.

Grady C. Cothen,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–27651 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Denver Rock Island Railroad (on Behalf of the Sunflower Railroad, Inc.)

[Docket Number FRA–2003–15513]

The Denver Rock Island Railroad, on behalf of the Sunflower Railroad, Inc. (SNR), seeks a waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR 223.11(c) that requires certified glazing for one locomotive. The SNR operates over 26.3 miles of excepted track in primarily rural territory at speeds not exceeding ten miles per hour.

The FRA's field investigation revealed that SNR began operation in October 2002 and at that time, there was no evidence of any accidents/incidents and or injuries to any railroad employee and no acts of vandalism. At the present time, locomotive SNR 61 is equipped with automotive type safety glass that is in excellent condition with no discoloration.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number 2003–15513) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW, Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC, on October 30, 2003.

Grady C. Cothen Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–27652 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Turtle Creek Industrial Railroad, Inc.

[Waiver Petition Docket Number FRA–2003–16173]

The Turtle Creek Industrial Railroad, Inc. (TCIR) seeks a waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR part 223, which requires certified glazing in all windows. The railroad claims that they operate in a very rural area and have had no accidents or incidents. This request is for two locomotives, specifically locomotive numbers 462 and 550.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2003–16173) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on October 29, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–27650 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–14371; Notice 2]

Cooper Tire & Rubber Company; Grant of Application for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that certain Mastercraft Avenger GT brand tires in the P275/60 R15 size do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New Pneumatic Tires.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper has petitioned for a determination that this

noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of the application was published, with a 30-day comment period, on January 30, 2003, in the **Federal Register** (68 FR 5972). NHTSA received no comments.

The petitioner argued as follows: FMVSS No. 109(S4.3(a)) requires that one size designation be molded on the tire's sidewall, except that equivalent inch and metric size designations may be used. The correct size designation, P275/60R15, was molded on both upper sidewalls and the lower sidewall on the DOT serial number side. However, on the side opposite the DOT serial number, a number of tires were stamped with an incorrect size designation of P275/80R15 in the lower sidewall area. The noncompliant tires were produced during the 23rd and 32nd production weeks of 2002.

The incorrect size designation was removed from the mold and the correct size designation inserted; however, prior to the mold being correctly stamped, 5,706 tires were inadvertently shipped marked with the one incorrect size designation.

Cooper states that the incorrect size designation on each tire is inconsequential to safety. The incorrect marking is the series designation. In the two most prominent locations and the serial side of the tire, the series designation is correct. Additionally there is no P275/15 sized tire manufactured in an 80 series. The noncompliant tires produced from the involved mold during the aforementioned production periods comply with all other requirements of FMVSS 109.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The tires are certified to meet all the performance requirements of FMVSS No. 109. The agency agrees with Cooper's statement indicating that the incorrect size designation on each tire does not present a serious safety concern. Although there is an incorrect size marking in one location on the tire that refers to the tire's series, we note that the correct tire size is stamped in three other locations on the tire sidewall. The incorrectly-stated series does not constitute a safety concern, since the incorrect designation does not exist and the consumer or the tire dealer can locate the correct tire size elsewhere on the tire sidewall. Cooper has also correctly stamped the mold thus correcting the problem.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's application is granted and the applicant is exempted from providing the notification of the noncompliance as would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

Authority: 49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 30, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–27655 Filed 11–3–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34418]

CSX Transportation, Inc.—Trackage Rights Exemption—Norfolk Southern Railway Company

Pursuant to a written trackage rights agreement dated June 20, 2003, Norfolk Southern Railway Company (NSR) has agreed to grant trackage rights to CSX Transportation, Inc. (CSXT), over approximately 21.3 miles of rail line in the Cincinnati, OH area. The trackage rights are between: (1) Milepost CF 30.9 at Butler Street and milepost CF 17.15 at Vaughn, a distance of 13.75 miles; (2) milepost BE 4.0 at Hopple Street and milepost BE 2.7 at Mitchell Avenue, a distance of 1.3 miles; and (3) milepost CJ 248.75 and the connection with CSXT at NA Tower/Ivorydale Junction at milepost CJ 255.00, a distance of 6.25 miles.

Although CSXT states that the transaction was scheduled to be consummated on October 21, 2003, the earliest the transaction could be consummated was October 22, 2003 (7 days after filing the notice).

The purpose of the trackage rights is to allow CSXT and NSR to operate more efficiently by instituting a directional running arrangement over each others lines.

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. 34418, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water St., J150, Jacksonville, FL 32202.

Board decisions and notices are available on our Web site at *http//www.stb.dot.gov.*

Decided: October 28, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–27592 Filed 11–3–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–254 (Sub–No. 7X)]

Providence and Worcester Railroad Company—Abandonment Exemption—in Worcester County, MA, and Windham County, CT

Providence and Worcester Railroad Company (P&W) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a portion of its line of railroad known as the Southbridge Running Track, extending from milepost 0.18, in Webster, MA, to milepost 10.98, in Southbridge, MA, a distance of approximately 10.8 miles, in Worcester County, MA, and Windham County, CT. The line traverses United States Postal Service Zip Codes 01550, 01570, 01571, and 06277.[1]

P&W certified that: (1) No local traffic has moved over the line for at least 2

[1] Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The applicant initially indicated a proposed consummation date of December 3, 2003, but because the verified notice was filed on October 15, 2003, consummation may not take place prior to December 4, 2003. By facsimile filed on October 22, 2003, applicant's representative confirmed that the consummation date will be after December 4, 2003.

years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 4, 2003, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 14, 2003. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 24, 2003, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to P&W's representative: Amy Silverstein, Assistant General Counsel, 75 Hammond Street, Worcester, MA 01610.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

P&W has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 7, 2003. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), P&W shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by P&W's filing of a notice of consummation by November 4, 2004, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: October 28, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–27645 Filed 11–3–03; 8:45 am]

BILLING CODE 4915–00–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 27, 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, Pub. L. 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 11100, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 4, 2003 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1694.

Revenue Ruling Number: Revenue Ruling 2000–35.

Type of Review: Extension.

Title: Automatic Enrollment in section 403(b) Plans.

Description: Revenue Ruling 2000–35 describes certain criteria that must be met before an employee's compensation can be reduced and contributed to an employer's section 403(b) plan in the absence of an affirmative election by the employee.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 1 hour, 45 minutes.

Frequency of Response: On occasion, Annually.

Estimated Total Reporting Burden: 175 hours.

Clearance Officer: R. Joseph Durbala (202) 622–3634, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Treasury PRA Clearance Officer.

[FR Doc. 03–27713 Filed 11–3–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 27, 2003.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 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 December 4, 2003 to be assured of consideration.

Financial Management Service

OMB Number: 1510–0035.

Form Number: None.

Type of Review: Extension.

Title: Assignment Form.

Description: This form is used when an awardholder wants to assign or

transfer all or part of his/her award to another person. When this occurs, the awardholder forfeits all future rights to the portion assigned.

Respondents: Individuals or households.

Estimated Number of Respondents: 150.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 75 hours.

Clearance Officer: Juanita Holder, Financial Management Service, 3700 East West Highway, Room 135, PGP II, Hyattsville, MD 20782.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Treasury PRA Clearance Officer.

[FR Doc. 03–27714 Filed 11–3–03; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Interagency Notice of Change in Control

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before December 4, 2003.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, or e-mail to *Joseph_F._Lackey_Jr@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http//www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov,* (202) 906–6467, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Interagency Notice of Change in Control.

OMB Number: 1550–0032.

Form Number: Interagency Notice of Change in Control.

Regulation requirement: 12 CFR 574.

Description: 12 CFR 574 contains filing requirements for change in control applications. Section 1817(j) of the Federal Deposit Insurance Act requires a notice to be filed with OTS when an insured institution undergoes a change of control, and sets forth the basic criteria that OTS must consider when acting on a Notice of Change in Control. It states that no person shall acquire control of any insured institution unless OTS has been given sixty days prior written notice of such proposed acquisition. OTS may extend the time period during which a disapproval may be issued if the conditions in subsections (j)(1)(A)–(D) of Section 1817 exist.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 35.

Estimated Frequency of Response: Event-generated.

Estimated Burden Hours per Response: 34.17 hours.

Estimated Total Burden: 1,196 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Dated: October 29, 2003.

By the Office of Thrift Supervision.

Richard M. Riccobono,

Deputy Director.

[FR Doc. 03–27637 Filed 11–3–03; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Notice of Hiring or Indemnifying Senior Executive Officers or Directors

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before December 4, 2003.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, or e-mail to *Joseph_F._Lackey_Jr@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov,* (202) 906–6467, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not

required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Notice of Hiring or Indemnifying Senior Executive Officers or Directors.

OMB Number: 1550–0047.

Form Number: Interagency Notice of Change in Director or Senior Executive Officer; Interagency Biographical and Financial Report; and Applicant Certification (OTS From 1606).

Regulation requirement: 12 CFR 545.121 (c)(iii).

Description: Congress requires agency notification and approval for new senior executive officers and directors of financial institutions. The Interagency Notice of Change in Director or Senior Executive Officer and the Interagency Biographical and Financial Report are used to evaluate the competence, experience, and integrity of individuals considered for directorships and senior executive positions. Form 1606 is an Applicant Certification as to lack of criminal background.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 886.

Estimated Frequency of Response: Event-generated.

Estimated Burden Hours per Response: 6 hours.

Estimated Total Burden: 5,149 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

By the Office of Thrift Supervision.

Dated: October 29, 2003.

Richard M. Riccobono,

Deputy Director.

[FR Doc. 03–27638 Filed 11–3–03; 8:45 am]

BILLING CODE 6720–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Branch Offices

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before December 4, 2003.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, or e-mail to *Joseph_F._Lackey_Jr@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov,* (202) 906–6467, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Branch Offices.

OMB Number: 1550–0006.

Form Number: OTS Forms 1450 and 1558.

Regulation requirement: 12 CFR 545.92 and 545.95.

Description: 12 CFR 545.92 and 545.95 require Federally-chartered institutions proposing to establish or change the location of a branch office to file an application or notice with OTS. OTS analyzes each branch application or notice to ensure that there are no supervisory objections and that it meets all regulatory requirements.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 1,026.

Estimated Frequency of Response: Event-generated.

Estimated Burden Hours per Response: 2.3 hours.

Estimated Total Burden: 2,350 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Dated: October 29, 2003.

By the Office of Thrift Supervision.

Richard M. Riccobono,

Deputy Director.

[FR Doc. 03–27641 Filed 11–3–03; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register
Vol. 68, No. 213
Tuesday, November 4, 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 COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

[Docket No. 031016260–3260–01; I.D. 091603A]

RIN 0648–AR71

NOAA Information Collection Requirements; Update and Correction

Correction

In rule document 03–27181 beginning on page 61339 in the issue of Tuesday, October 28, 2003 make the following correction:

§ 902.1 [Corrected]

1. On the same page, in §902.1(b), in the third column, the table is corrected in part with the following additions to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(b) *Display*

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * *	* *
50 CFR	
* * *	* *
640.6	–0358 and –0359
648.8	–0350
648.9	–0202 and –0404
648.10	–0202
* * *	* *
648.58	–0202 and –0416
* * *	* *
648.80	–0202 and –0422
* * *	* *
648.84	–0202 and –0351
* * *	* *
654.6	–0358 and –0359
* * *	* *
660.16	–0361
* * *	* *
660.24	–0360
660.25	–0441
* * *	* *
660.305	–0355
660.322	–0352
* * *	* *
679.4(b), (f), (h), and (i)	–0206
679.4(d) and (e)	–0272
679.4(g) and (k)	–0334
679.4(l)	–0393
679.5(a)	–0213, –0269, –0272, and –0401
679.5(b), (c), (d), (g), (h), (i), (j), (k) and (m)	–0213
679.5(e), (f), and (o)	–0401
679.5(l)(1), (l)(2), (l)(3), (l)(4), and (l)(5)	–0272
679.5(l)(7)	–0398
679.5(n)	–0269
679.5(p)	–0428
* * *	* *
679.24(a)	–0353
679.24(e)	–0454
* * *	* *
679.28(b) and (d)	–0330
* * *	* *
679.32(c)	–0269 and –0330
679.32(d)	–0269
679.32(f)	–0269 and –0272
679.40	–0272
* * *	* *
679.43	–0272 and –0398
679.45	–0398
679.50	–0318
* * *	* *
679.61(c) and (f)	–0401
679.61(d) and (e)	–0393
679.62(b)(3) and (c)	–0401
679.63(a)(2)	–0330
* * *	* *

[FR Doc. C3–27181 Filed 11–3–03; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 187–1187a; FRL–7569–9]

Approval and Promulgation of State Implementation Plans; State of Iowa

Correction

In rule document 03–25396 beginning on page 58019 in the issue of Wednesday, October 8, 2003, make the following correction:

§52.820 [Corrected]

On page 58022, in §52.820(c), in the table, under the heading ''Comments'', in the first line ''of and ''variance '' '' should read ''of ''variance '' ''.

[FR Doc. C3–25396 Filed 11–3–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 104, 160, and 165

46 CFR Parts 2, 31, 71, 91, 115, 126, and 176

[USCG–2003–14749]

RIN 1625–AA46

Vessel Security

Correction

In rule document 03–26347 beginning on page 60483 in the issue of Wednesday, October 22, 2003, make the following correction:

On page 60483, in the second column, in the **DATES** section, in the second line, ''November 19, 2003'' should read ''November 21, 2003.''

[FR Doc. C3–26347 Filed 11–3–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURIITY

Coast Guard

33 CFR Part 101

[USCG–2003–14792]

RIN 1625–AA69

Implementation of National Maritime Security Initiatives

Correction

In rule document 03–26345 beginning on page 60448 in the issue of Wednesday, October 22, 2003, make the following correction:

§101.420 [Corrected]

On page 60472, in the second column, in §101.420(b), in the 14th line, ''(G√MOC)'' should read ''(G-MOC). ''

[FR Doc. C3–26345 Filed 11–3–03; 8:45 am]

BILLING CODE 1505–01–D

Reader Aids

Federal Register

Vol. 68, No. 213

Tuesday, November 4, 2003

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
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H.R. 1900/P.L. 108–101

To award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of the Congress that there should be a national day in recognition of Jackie Robinson. (Oct. 29, 2003; 117 Stat. 1195)

H.R. 3229/P.L. 108–102

To amend title 44, United States Code, to transfer to the Public Printer the authority over the individuals responsible for preparing indexes of the Congressional Record, and for other purposes. (Oct. 29, 2003; 117 Stat. 1198)

S. 1591/P.L. 108–103

To redesignate the facility of the United States Postal Service located at 48 South Broadway, Nyack, New York, as the ''Edward O'Grady, Waverly Brown, Peter Paige Post Office Building''. (Oct. 29, 2003; 117 Stat. 1199)

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