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# Federal Register

**6–26–00** **Monday**
**Vol. 65 No. 123** **June 26, 2000**
**Pages 39279–39506**

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**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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**WHERE:** Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

**RESERVATIONS:** 202–523–4538

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# Presidential Documents

**Title 3—**

## The President

**Executive Order 13159 of June 21, 2000**

## Blocking Property of the Government of the Russian Federation Relating to the Disposition of Highly Enriched Uranium Extracted From Nuclear Weapons

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code.

I, WILLIAM J. CLINTON, President of the United States of America, in view of the policies underlying Executive Order 12938 of November 14, 1994, and Executive Order 13085 of May 26, 1998, find that the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

**Section 1.** A major national security goal of the United States is to ensure that fissile material removed from Russian nuclear weapons pursuant to various arms control and disarmament agreements is dedicated to peaceful uses, subject to transparency measures, and protected from diversion to activities of proliferation concern. As reflected in Executive Order 13085, the full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the ''HEU Agreements'') is essential to the attainment of this goal. The HEU Agreements provide for the conversion of approximately 500 metric tons of highly enriched uranium contained in Russian nuclear weapons into low-enriched uranium for use as fuel in commercial nuclear reactors. In furtherance of our national security goals, all heads of departments and agencies of the United States Government shall continue to take all appropriate measures within their authority to further the full implementation of the HEU Agreements.

**Sec. 2.** Government of the Russian Federation assets directly related to the implementation of the HEU Agreements currently may be subject to attachment, judgment, decree, lien, execution, garnishment, or other judicial process, thereby jeopardizing the full implementation of the HEU Agreements to the detriment of U.S. foreign policy. In order to ensure the preservation and proper and complete transfer to the Government of the Russian Federation of all payments due to it under the HEU Agreements, and except to the extent provided in regulations, orders, directives, or licenses that may hereafter be issued pursuant to this order, all property and interests in property of the Government of the Russian Federation directly related to the implementation of the HEU Agreements that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in. Unless licensed or authorized pursuant to this order, any attachment, judgment, decree, lien, execution,

garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to this order.

**Sec. 3.** For the purposes of this order: (a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a partnership, association, trust, joint venture, corporation, or other organization;

(c) The term ''United States person'' means any United States citizen; permanent resident alien; juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; or any person in the United States; and

(d) The term ''Government of the Russian Federation'' means the Government of the Russian Federation, any political subdivision, agency, or instrumentality thereof, and any person owned or controlled by, or acting for or on behalf of, the Government of the Russian Federation.

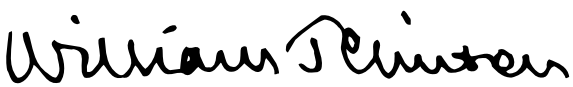
**Sec. 4.** (a) The Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Energy, and, as appropriate, other agencies, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their statutory authority to carry out the provisions of this order.

(b) Nothing contained in this order shall relieve a person from any requirement to obtain a license or other authorization from any department or agency of the United States Government in compliance with applicable laws and regulations subject to the jurisdiction of the department or agency.

**Sec. 5.** This order is not intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, or any other person.

**Sec. 6.** (a) This order is effective at 12:01 a.m. eastern daylight time on June 22, 2000.

(b) This order shall be transmitted to the Congress and published in the **Federal Register**.



THE WHITE HOUSE,
*June 21, 2000.*

[FR Doc. 00–16252
Filed 6–23–00; 8:45 am]
Billing code 3195–01–P

# Rules and Regulations

Federal Register
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Monday, June 26, 2000

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

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 981

**[Docket No. FV00–981–1 FIR]**

## Almonds Grown in California; Release of the Reserve Established for the 1999–2000 Crop Year

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule relaxing volume regulation percentages implemented under the California almond marketing order (order) during the 1999–2000 crop year (August 1 through July 31). The order regulates the handling of almonds grown in California and is locally administered by the Almond Board of California (Board). This rule continues the scheduled release of reserve almonds into normal salable channels. One-third of the reserve was released on May 2, 2000, the second-third was released on June 1, 2000, and the final-third will be released on July 1, 2000. Releasing the reserve is necessary to provide a sufficient quantity of almonds to meet anticipated trade demand and carryover needs.

**EFFECTIVE DATE:** July 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 981, as amended, (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in accordance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable and reserve percentages may be established for almonds during any crop year. This rule continues the scheduled relaxation of the salable and reserve percentages for marketable California almonds during the 1999–2000 crop year, which began August 1, 1999, and ends July 31, 2000. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

The order regulates the handling of almonds grown in California and is locally administered by the Board. During the 1999–2000 season, handlers were required to withhold as a reserve, from normal competitive markets, 22.36 percent of the almonds which they received from growers. The remaining 77.64 percent of the crop could be sold by handlers to any market at any time. These percentages are referred to as reserve and salable percentages, respectively. This rule continues to relax this regulation on handlers by continuing the scheduled release of all almonds held as reserve for sale to normal market channels. This is necessary to provide a sufficient quantity of almonds to meet anticipated trade demand and carryover needs. This action was unanimously recommended by the Board at a meeting on April 10, 2000.

Section 981.47 of the almond marketing order provides authority for the Secretary, based on recommendations by the Board and the analysis of other available information, to establish salable and reserve percentages for almonds during a crop year. To aid the Secretary in fixing the salable and reserve percentages, § 981.49 of the order requires the Board to submit information to the Department on estimates of the marketable production of almonds, trade demand needs for the year, carryin inventory at the beginning of the year, and the desirable carryout inventory at the end of the year. Reserve almonds may be disposed of in authorized reserve outlets, such as certified organic markets or for use in almond oil, almond butter, and animal feed. Reserve almonds can also be released for sale into normal marketing channels based on a revision of the aforementioned factors and other information. Authority for the Board to recommend revisions in the volume regulation percentages is provided in § 981.48 of the order. Such revisions must be recommended by May 15.

The Board met in May and July of 1999 to review projected crop estimates and marketing conditions for the 1999–2000 crop year. A record crop of 830 million kernelweight pounds was projected for the season. This would produce an estimated 796.8 marketable

kernelweight pounds after an adjustment for processing losses and exempt product. When combined with estimated carryin and adjusted for desired carryout, an estimated 827.2 million pounds was available for marketing during the 1999–2000 crop year. Trade demand was estimated by the Board at 649 million pounds; thus, a projected oversupply of almonds of about 178.2 million pounds existed for the 1999–2000 crop year. The Board also considered other factors such as price levels and fluctuations, increased plantings and yields, and weather-related variations in production, and ultimately recommended establishment of a reserve for the 1999–2000 season. The Department established salable and reserve percentages of 77.64 and 22.36 percent, respectively, for almonds received by handlers during the 1999–2000 crop year, pursuant to a regulation published in the **Federal Register** on November 2, 1999 (64 FR 59107).

The Board met on April 10, 2000, to consider disposition of the reserve. At that time, the Board evaluated marketing and other conditions in the industry, and recommended revisions to the marketing policy estimates initially used in establishing the reserve. A comparison of the initial estimates and revised estimates are contained in the following table.

MARKETING POLICY ESTIMATES—1999 CROP

[Kernelweight basis in millions of pounds]

| | 07/12/99 initial estimates | 04/10/00 revised estimates |
|---|---|---|
| Estimated Production: | | |
| 1. 1999 Production | 830.0 | 827.4 |
| 2. Loss and Exempt—4.0% | 33.2 | 33.1 |
| 3. Marketable Production | 796.8 | 794.3 |
| Estimated Trade Demand: | | |
| 4. Domestic | 190.0 | 203.0 |
| 5. Export | 459.0 | 492.0 |
| 6. Total | 649.0 | 695.0 |
| Inventory Adjustment: | | |
| 7. Carryin 8/1/99 | 100.4 | 91.8 |
| 8. Desirable Carryover 7/31/00 | 70.0 | 191.1 |
| 9. Adjustment (Item 8 minus item 7) | −30.4 | 99.3 |
| Salable/Reserve: | | |
| 10. Adjusted Trade Demand (Item 6 plus item 9) | 618.6 | 794.3 |
| 11. Reserve (Item 3 minus item 10) | 178.2 | 0.0 |
| 12. Salable % (Item 10 divided by item 3 × 100) | [1] 77.64 | 100.0 |
| 13. Reserve % (100% minus item 12) | [1] 22.36 | 0.0 |

[1] Percent.

In arriving at these estimates, the Board revised its 1999–2000 crop estimate of 830 million pounds to 827.4 million pounds, and marketable production of 796.8 million pounds to 794.3 million pounds. The carryin on August 1, 1999, was initially estimated to be 100.4 million pounds. That figure was revised to reflect actual carryin of 91.8 million pounds. Thus, the total available supply for the 1999–2000 crop year is slightly lower than initially estimated.

Shipment figures for the year-to-date were analyzed. Through March 2000, total industry shipments of almonds were 525.5 million pounds, significantly higher than shipments for a comparable period in any prior year. Based on historical shipping patterns and shipments to date this season, the Board anticipates strong shipment levels to continue for the remainder of the season. Therefore, the Board revised its trade demand estimate from 649 million pounds to 695 million pounds.

A final crop estimate for the 2000–2001 crop year will not be available until June 29. A preliminary crop estimate of 675 million pounds was issued by the California Agricultural Statistics Service (CASS) on May 11, 2000. The industry continues to believe that next year's crop will be significantly smaller than the current crop. Several factors have contributed to this conclusion. In addition to the usual pattern of a shorter crop following a large crop, the weather throughout the production area during the month of February was generally cool, rainy, and windy. During this period, almond trees were in bloom, and the weather conditions were not conducive to good flower pollination. Field observations since the bloom period confirm that the 2000–2001 crop will be significantly smaller, perhaps smaller than the preliminary estimate. It is believed that next year's crop will not provide a sufficient supply of almonds to meet trade needs and provide an adequate carryout at the end of the 2000–2001 crop year. Therefore, to provide more almonds to satisfy the current year's trade demand and to augment next year's supplies, the Board recommended releasing the 1999–2000 crop year reserve. The Board also considered the timing of releasing reserve product to salable market channels. The Board determined that a gradual release schedule would best serve the industry. This would prevent a large quantity of almonds from being made available for sale by handlers immediately, which could put downward pressure on prices and create disorderly marketing conditions. Thus, the Board unanimously recommended releasing one-third of the reserve as soon as possible, one-third on June 1, 2000, and the final-third on July 1, 2000. The resulting salable and reserve percentages were 85.09 percent and 14.91 percent, respectively, on May 2, 2000; 92.55 percent and 7.45 percent, respectively, on June 1, 2000; and will be 100 and 0 percent, respectively, on July 1, 2000.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly,

AMS has prepared this final regulatory flexibility analysis.

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

There are approximately 105 handlers of California almonds who are subject to regulation under the marketing order and approximately 6,000 producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000.

Based on the most current data available, about 54 percent of almond handlers ship under $5,000,000 worth of almonds and 46 percent ship over $5,000,000 worth on an annual basis. In addition, based on production and grower prices reported by the National Agricultural Statistics Service (NASS), and the total number of almond growers, the average annual grower revenue is approximately $195,000. In view of the foregoing, it can be concluded that the majority of handlers and producers of California almonds may be classified as small entities, excluding receipts from other sources.

Pursuant to §§ 981.47 and 981.49, during the 1999–2000 crop year, handlers were required to withhold as a reserve, from normal competitive markets, 22.36 percent of the almonds which they received from growers (64 FR 59107, November 2, 1999). The remaining 77.64 percent of the crop could be sold by handlers to any market at any time. Volume regulation was implemented because the available supply of almonds for the 1999–2000 crop year, adjusted by carryin and desired carryout, was estimated to be about 827 million pounds, which exceeded the estimated trade demand needs of about 649 million pounds.

Pursuant to § 981.48 of the order, this rule continues the scheduled release of reserve almonds. A total of 7.45 percent of the reserve was released on May 2, 2000, another 7.45 percent was released on June 1, 2000, and the final 7.45 percent will be released on July 1, 2000. Releasing the reserve is necessary to provide a sufficient quantity of almonds to meet anticipated trade demand and carryover needs. Shipment levels through March, 2000 and anticipated strong shipments for the remainder of the season led to an increased trade demand estimate from 649 million pounds to 695 million pounds. In addition, because a smaller 2000–2001 crop is expected, the industry would like to increase the amount of 1999–2000 carryout inventory from 70 million pounds to 191.2 million pounds to augment supplies during the next crop year. The timing of the releases was structured so that all 178 million pounds of reserve product would not enter the market at one time.

This action is expected to have a positive effect on producers and handlers of almonds. It gradually removes the regulatory requirement that handlers hold product in reserve or sell it to reserve outlets. Handlers will be able to sell reserve almonds into normal markets at prevailing prices (currently in the range of $1.15 per pound to $1.60 per pound) as opposed to selling them into lower value reserve outlets (ranging from 8 to 15 cents per pound for oil or 4 to 5 cents per pound for animal feed). Although reserve almonds can be sold to organic markets or for use in the manufacture of almond butter at higher prices than other reserve outlets, the quantity that can be sold is limited because those markets are relatively small. Handlers and growers should be able to achieve higher total revenue for their product by selling to normal markets, because trade demand for almonds has increased significantly from early season estimates, and price levels have also improved in recent months.

Releasing reserve almonds into the market in three stages has helped ensure that a large supply of almonds is not available for sale by handlers at the same time, which could have created a temporary oversupply and had a negative impact on price levels. The staged release also helped to ensure that additional product will be available for carryin to the following crop year to augment anticipated short supplies. This action is intended to promote orderly marketing conditions for the remainder of the 1999–2000 crop year and also leading into the 2000–2001 crop year, for the benefit of producers and handlers, regardless of size.

One alternative considered was to release all of the reserve product to normal market channels as soon as possible. This alternative was not recommended because it was believed that too much product would be available at one time, creating a short-term oversupply situation, which could have negatively impacted prices and market conditions. Another alternative considered was to release one-third of the reserve as soon as possible, and if the May 11, 2000, crop estimate issued by CASS for the 2000–2001 crop was less than 525 million pounds, to release the entire reserve as soon as possible after that. If the May crop estimate was more than 525 million pounds, this alternative would have released one-third of the reserve as soon as possible after May 11, and the final one-third on July 1, 2000. This was not recommended. The Board decided that three equal releases were preferable.

All the scenarios considered had the common goal of releasing all the 1999–2000 crop year reserve to the salable category. The Board ultimately recommended releasing one-third of the reserve as soon as possible (May 2, 2000), one-third on June 1, 2000, and the final one-third on July 1, 2000. The Board believed this would best achieve orderly marketing objectives. Adequate supplies should be available to meet market needs for the remainder of the crop year and for carryin to the next crop year, thus satisfying market needs and maintaining market and price stability.

This rule will not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to help reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the April 10, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Reserve Committee met on April 10, 2000, and discussed this issue in detail. That meeting was also a public meeting and both large and small entities were able to participate and express their views.

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

address in the **FOR FURTHER INFORMATION CONTACT** section.

An interim final rule concerning this action was published in the **Federal Register** on May 1, 2000 (65 FR 25233). Copies of the rule were mailed by the Board's staff to all Board members and almond handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 15-day comment period which ended on May 16, 2000. One comment was received. The comment was submitted by the Board in support of the release, noting that the Board met on May 16, 2000, and reaffirmed its position to release the reserve in three stages.

After consideration of all relevant material presented, including the Board's recommendation and comment, and other information, it is found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

**List of Subjects in 7 CFR Part 981**

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

## PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 981 which was published at 65 FR 25233 on May 1, 2000, is adopted as a final rule without change.

Dated: June 19, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–16017 Filed 6–23–00; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 984

**[Docket No. FV00–984–1 FR]**

## Walnuts Grown in California; Report Regarding Interhandler Transfers of Walnuts

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule will revise the administrative rules and regulations of the Federal marketing order for California walnuts (order) regarding reports of interhandler transfers of walnuts. The order regulates the handling of walnuts grown in California and is administered locally by the Walnut Marketing Board (Board). Currently, handlers report to the Board transfers of walnuts between handlers on monthly shipment reports. This rule will require handlers to report such interhandler transfers on a separate form. This action will facilitate program administration by providing the Board with more accurate and complete information on transfers and shipments.

**EFFECTIVE DATE:** August 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule will revise the order's administrative rules and regulations regarding reports of interhandler transfers of walnuts. Currently, handlers report to the Board transfers of walnuts between handlers on monthly shipment reports. This rule will require handlers to report such interhandler transfers on a separate form. This action will facilitate program administration by providing the Board with more accurate and complete information on transfers and shipments. This action was unanimously recommended by the Board at a meeting on February 18, 2000.

Section 984.76 of the order provides authority for the Board, with the approval of the Secretary, to require handlers to furnish reports and information to the Board as needed to enable the Board to perform its duties under the order. The Board meets during the season to make decisions on various programs authorized under the order. These programs include quality control (minimum grade and size requirements for both inshell and shelled walnuts placed into channels of commerce), volume regulation, and projects regarding production research, and marketing research and development.

Section 984.59 of the order provides authority for handlers to transfer walnuts between handlers. Paragraph (a) of that section states that inshell walnuts may be sold or delivered by one handler to another for packing or shelling within California. In such cases, the receiving handler assumes marketing order obligations with respect to the transferred walnuts, including assessment and inspection requirements. Paragraph (b) of § 984.59 pertains to transfers of walnuts when volume regulation is in effect. Specifically, handlers may, for purposes of meeting their reserve obligation, acquire walnuts from other handlers. In such cases, the buying handler assumes marketing order obligations with respect to the transferred walnuts, including assessment, reserve, and inspection requirements. Paragraph (c) of § 984.59

provides that, with the exceptions stated in paragraphs (a) and (b) of § 984.59, whenever transfers of walnuts are made between handlers, the first handler thereof shall assume all marketing order obligations pertaining to the walnuts.

Currently, handlers are required to report interhandler transfers on monthly shipment reports, WMB Form No. 6. However, the monthly shipment reports do not require handlers to indicate the date the walnuts were transferred, and whether the transferred walnuts were certified by the Dried Fruit Association (DFA). DFA is the agency designated under the order to provide inspection services for handlers. Also, the reports do not indicate the date the walnuts were received by the handler accepting the walnuts, or include a confirmation by the accepting handler that such walnuts were received. This information on transfers is useful to the Board as it reconciles handler shipments and inventories.

The Board recommended that a new form be developed specific to interhandler transfers. A handler who transfers walnuts to another handler will have to complete and submit WMB Form No. 8 to the Board within 10-calendar days following the transfer. The report will contain the following information: (1) The date of the transfer; (2) the net weight, in pounds, of the walnuts transferred; (3) whether such walnuts were certified by the DFA; (4) whether such walnuts were inshell or shelled; (5) the name and address of the transferring handler; and (6) the name and address of the receiving handler. The transferring handler will be required to send two copies of the report to the receiving handler at the same time the transferring handler will submit the report to the Board. The receiving handler will then certify, on one copy of the report, that he or she received the walnuts. The receiving handler will then submit the report to the Board within 10-calendar days after the walnuts, or copies of the report, are received, whichever is later. Transfers of reserve walnuts during periods of volume regulation will continue to be reported on WMB Form No. 17.

This rule will provide the Board with more accurate and complete information regarding handler transfers and shipments of walnuts, thereby facilitating program administration. Accordingly, a new § 984.459 will be added to the order's administrative rules and regulations.

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

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

There are approximately 5,000 producers of walnuts in the production area and approximately 50 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

During the 1998–99 season, as a percentage, 24 percent of the handlers shipped over 2.6 million kernelweight pounds of walnuts, and 76 percent of the handlers shipped under 2.6 million kernelweight pounds of walnuts. Based on an average price of $1.88 per kernelweight pound at the point of first sale, the majority of handlers of California walnuts may be classified as small entities, excluding receipts from other sources.

This final rule will add a new § 984.459 to the order's administrative rules and regulations which requires handlers to report transfers of walnuts between handlers on a separate form. Currently, interhandler transfers are reported on handlers' monthly shipment reports. This action will facilitate program administration by providing the Board with more accurate and complete information on transfers and shipments. Authority for requiring handlers to submit this information to the Board is provided in §§ 984.59 and 984.76 of the order.

Regarding the impact of this action on affected entities, this rule will impose a minimal, additional reporting burden on handlers who transfer walnuts. Handlers who transfer walnuts are already reporting transfers to the Board on monthly shipment reports. This action will require such handlers to report transfers on a separate form. Board staff estimates that there are about 25 interhandler transfers per year (20 total during the months of October, November, and December, and 0–1 during the other 9 months). This action is designed to provide the Board with more accurate and complete information on shipments and transfers which will facilitate program administration.

Regarding alternatives to the recommended action, the Board and industry members discussed at the Board's February 18, 2000, meeting different time frames for the submission of the separate, interhandler transfer report. A 5-day time frame was considered whereby transferring handlers would submit their report to the Board within 5 days of the transfer, and the receiving handler would submit their report within 5 days of receiving the walnuts. However, the Board believed that 5 days was too short a time frame for handlers, and recommended the 10-day time frame.

This action will impose some additional reporting and recordkeeping burden on handlers. As previously mentioned, it is estimated that there are about 25 interhandler transfers per year. It will take handlers about 10 minutes to complete the new form for a total industry burden of about 4 hours per year. With interhandler transfers no longer on monthly shipment reports, the burden for handlers to complete the monthly shipment report will be reduced from 15 to 10 minutes per report, or from a total of 3 to 2 hours per year. Thus, the total annual increase in burden for the industry is estimated at 3 hours. The revised shipment report and the new, interhandler transfer report have been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

In addition, the Board's meeting on February 18, 2000, where this action was deliberated was a public meeting widely publicized throughout the walnut industry. All interested persons were invited to attend the meeting and participate in the Board's deliberations.

A proposed rule concerning this action was published in the **Federal Register** on April 5, 2000 (65 FR 17809). Copies of the rule were mailed to all handlers, Board members, and alternate members. The rule was also made available through the Internet by the Office of the Federal Register. A 60-day comment period ending June 5, 2000, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop

marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

**List of Subjects in 7 CFR Part 984**

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

## PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. A new § 984.459 is added to read as follows:

### § 984.459 Reports of interhandler transfers.

(a) Any handler who transfers walnuts to another handler within the State of California shall submit to the Board, not later than 10 calendar days following such transfer, a report showing the following:

(1) The date of transfer;

(2) The net weight, in pounds, of the walnuts transferred;

(3) Whether such walnuts were certified by the inspection service;

(4) Whether such walnuts were inshell or shelled;

(5) The name and address of the transferring handler; and

(6) The name and address of the receiving handler.

(b) The transferring handler shall send two copies of the report to the receiving handler at the time the report is submitted to the Board. The receiving handler shall certify, on one copy of the report, to the receipt of such walnuts and submit it to the Board within 10 calendar days after the walnuts, or copies of such report, have been received, whichever is later.

Dated: June 16, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–16016 Filed 6–23–00; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NE–50–AD; Amendment 39–11796; AD 2000–12–18]**

**RIN 2120–AA64**

## Airworthiness Directives; Rolls-Royce Ltd. Dart 511, 511–7E, 514–7, 528, 528–7E, 529–7E, 532–7, 532–7L, 532–7N, 532–7P, 532–7R, 535–7R, 551–7R, and 552–7R Turboprop Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to Rolls-Royce Ltd. Dart 511, 511–7E, 514–7, 528, 528–7E, 529–7E, 532–7, 532–7L, 532–7N, 532–7P, 532–7R, 535–7R, 551–7R, and 552–7R turboprop engines. This AD requires the installation of a feathering probe and a steel retaining ring in the reduction gear housing (RGH) and replacement of a transfer bobbin installed in the torquemeter. This amendment is prompted by two reports of the failure of a propeller to feather following the failure of the RGH annulus gear, which resulted in the propeller overspeeding and the release of a propeller blade, causing damage to the airplane. The actions specified by this AD are intended to prevent a propeller from overspeeding and the release of a propeller blade after a failure of the RGH annulus gear, which could result in damage to an adjacent engine or to the airplane.

**DATES:** Effective date July 31, 2000. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of July 31, 2000.

**ADDRESSES:** The service information referenced in this AD may be obtained from Rolls-Royce Limited, Attn: Dart Engine Service Manager, East Kilbride, Glasgow G74 4PY, Scotland; telephone: 011–44–1355–220–200, fax: 011–44–1141–778–432. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7747, fax 781–238–7199.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) applicable to Rolls-Royce Ltd. (R–R) Dart 511, 511–7E, 514–7, 528, 528–7E, 529–7E, 532–7, 532–7L, 532–7N, 532–7P, 532–7R, 535–7R, 551–7R, and 552–7R turboprop engines was published in the **Federal Register** on January 12, 2000 (65 FR 1840). That action proposed to require:

- Installation of a feathering probe.
- Installation of a steel retaining ring in the reduction gear housing.
- Replacement of a torquemeter oil pressure transfer bobbin.

The actions will be required to be accomplished at the next shop visit after the effective date of the AD, or by December 31, 2000, whichever occurs first, in accordance with R–R service bulletin (SB) Da72–348, Revision 13, dated April 1999.

**Conclusion**

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's economic analysis. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

**Economic Impact**

There are approximately 1500 engines of the affected design in the worldwide fleet. The FAA estimates that 100 engines installed on aircraft of U.S. registry would be affected by this AD, that it would take approximately two work hours per engine to accomplish the actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $300 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $42,000.

**Regulatory Impact**

This rule does not have federalism implications, as defined in Executive Order 13132, because it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

For the reasons discussed above, I certify that this 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) 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, Incorporation by reference, Safety.

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**2000–12–18 Rolls Royce Ltd.:** Amendment 39–11796, Docket No. 99–NE–50–AD.

*Applicability:* This AD is applicable to Rolls-Royce Ltd. (R–R) Dart 511, 511–7E, 514–7, 528, 528–7E, 529–7E, 532–7, 532–7L, 532–7N, 532–7P, 532–7R, 535–7R, 551–7R, and 552–7R turboprop engines. These engines are installed on but not limited to Fokker Aircraft B.V. F27 series and Maryland Air Industries (formerly Fairchild) F–27 and FH–227 series airplanes.

**Note 1:** This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance* Compliance with this AD is required as indicated below, unless already completed.

To prevent a propeller from overspeeding, resulting in propeller release after a failure of the annulus gear, which could result in damage to an adjacent engine or to the airplane, do the following:

**Installation of a Sensor Probe and Retaining Ring**

(a) At the next shop visit after the effective date of this AD, or by December 31, 2000, whichever occurs first, do all of the following:

(1) Install a feathering probe in the front bearing panel of the reduction gearbox in accordance with paragraph 2.A. of service bulletin (SB) Da72–348, revision 13, dated April 13, 1999.

(2) Install a steel retaining ring between the nose casing and the front bearing panel in accordance with paragraph 2.C. of SB Da72–348, revision 13, dated April 13, 1999.

(3) Replace the existing transfer bobbin with an aluminum bobbin in accordance with paragraph 2.C. of SB Da72–348, revision 13, dated April 13, 1999.

**Definition of a Shop Visit**

(b) For the purposes of this AD, a shop visit is defined as any maintenance action that results in the removal or disassembly of the reduction gearbox.

**Alternative Method of Compliance**

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

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

**Special Flight Permits**

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

**Documents Incorporated by Reference**

(e) The inspection shall be done in accordance with the following Rolls-Royce service bulletin:

| Document No. | Pages | Revision | Date |
|---|---|---|---|
| | (The original service bulletin omitted page 8.) | | |
| Da72–348 | 1–2, 2A/2B | 13 | Apr. 1999. |
| | 3 | 7 | Aug. 22, 1969. |
| | 4–7 | Original | Dec. 24, 1968. |
| | 9 | 11 | July 10, 1970. |
| | 9A | 11 | July 10, 1970. |
| | 10–12 | 11 | July 10, 1970. |
| | 12A–12B | 11 | July 10, 1970. |
| | 13 | 11 | July 10, 1970. |
| | 14–16 | Original | Dec. 24, 1968. |
| | 17 | 4 | May 16, 1969. |
| | 18–19 | Original | Dec. 24, 1968. |
| | 20–20A | 10 | Jan. 23, 1970. |
| | 21 | 6 | July 11, 1969. |
| | 22 | Original | Dec. 24, 1968. |
| | 23 | 11 | July 10, 1970. |
| | 24 | Original | Dec. 24, 1968. |
| | 25–26 | 13 | Apr. 1999. |
| Supplement | 1–2 | Original | Feb. 7, 1969. |
| Total pages: 32 | | | |

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce Limited, Attn: Dart Engine Service Manager, East Kilbride, Glasgow G74 4PY, Scotland; telephone: 011–44–1355–220–200, fax: 011–44–1141–778–432. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register,

800 North Capitol Street, NW., suite 700, Washington, DC.

**Effective Date of This AD**

(f) This amendment becomes effective on July 31, 2000.

Issued in Burlington, Massachusetts, on June 9, 2000.

**David A. Downey,**

*Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 00–15424 Filed 6–23–00; 8:45 am]

**BILLING CODE 4910–13–U**

## DEPARTMENT OF STATE

## 22 CFR Part 51

**Public Notice [3341]**

## Passport Procedures—Amendment to Execution of Passport Application Regulation

**AGENCY:** Bureau of Consular Affairs, State.

**ACTION:** Final rule.

**SUMMARY:** This final rule extends from 12 years to 15 years the period, following the issue date of the previous passport, in which persons who previously have been issued a United States passport may apply for a new passport by mail. However, this rule does not change the statutory requirement that a person who applies for a United States passport must establish United States citizenship and identity.

**EFFECTIVE DATE:** This rule is effective July 26, 2000 without further action.

**ADDRESSES:** Interested persons are invited to submit comments to: Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, 2401 E Street, NW., Room-H917, Washington, DC 20522–0917.

**FOR FURTHER INFORMATION CONTACT:** Sharon E. Palmer-Royston, Office of Passport Policy, Planning and Advisory Services, Bureau of Consular Affairs, Department of State (202) 663–2430; telefax (202) 663–2654.

**SUPPLEMENTARY INFORMATION:**

### Background

The regulation governing the execution of a passport application, at section 51.21(a) in Title 22 of the Code of Federal Regulations, provides that a person who has not been issued a passport in his or her own name within 12 years of the date of a new application shall appear in person when applying for a new passport. The personal appearance requirement to verify the applicant's identity is consistent with the requirement in 22 U.S.C. 212 that the Secretary of State shall issue passports only to nationals of the United States, and the mandate in 22 U.S.C. 2705 that a United States passport issued for a period of full validity is proof of United States citizenship and the identity of the bearer.

The existing regulations at 22 CFR 51.21(c) and (d) further clarify sec. 51.21(a) by providing that persons who previously have been issued a passport, when 18 years of age or older, may obtain a new passport by mail, provided that the application for a new passport is submitted together with the previous passport not more than 12 years following the issue date of the previous passport. The provision to apply by mail is pursuant to the authority in 22 U.S.C. 213 that the Secretary of State may excuse personal appearance for a passport applicant in certain circumstances.

This final rule amends 22 CFR 51.21(a), (c)(2) and (d)(2) to provide that persons who have previously been issued a full validity passport may apply for a new passport by mail if the application is accompanied by their previous passport not more than 15 years following the issue date of the previous passport. The Department has determined that during the additional three years, the appearance of the person applying for a passport is unlikely to have changed so much as to preclude identification. Accordingly, the Department believes it is reasonable that during a period of up to 15 years following the issue date of the previous passport a person may apply for a new passport by mail, provided that proper identification of the applicant can be made from the documents and photographs accompanying the application.

Further, this final rule amends 22 CFR 51.21(c)(1) and (d)(1) to provide that the age of the applicant when the most recently issued passport was issued is lowered from 18 years of age to 16 years of age. This change is required to be consistent with the provisions governing the validity of passports in 22 CFR 51.4(b), which was amended on February 1, 1998, by lowering the age of eligibility for a passport valid for ten years from 18 years of age to 16 years of age.

Finally, this rule amends 22 CFR 51.80, concerning procedures for review of adverse actions, by revising the wording in subsection 51.80(a) to read more clearly.

Since the rule makes a benefit available to the class of affected persons at a reduced cost, because the fee for a passport obtained by a mail application is less than the fee for a passport obtained by an application requiring personal appearance, the Department has determined that prepublication notice and comment are unnecessary and are exempted by 5 U.S.C. 553(b)(B), the ''good cause'' exemption.

The Department does not consider this rule to be a major rule for purposes of E.O. 12291. These changes to the regulations are hereby certified as not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35. Nor does the rule have federalism implications warranting the application of Executive Order No. 12372 and No. 13132. This rule is exempt from E.O. 12866, but the Department has reviewed the rule to ensure consistency with the objectives of the Executive Order, as well as with E.O. 12988, and the Office of Management and Budget has determined this rule would not constitute a significant regulatory action under E.O. 12866.

### List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, this rule amends 22 CFR chapter I as follows:

## PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

**Authority:** 22 U.S.C. 211a; 22 U.S.C. 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p 570; sec. 129, Pub. L. 102–138, 105 Stat. 661; 8 U.S.C. 1504.

2. In Subpart B, § 51.21 is amended by revising the word ''twelve'' to read ''fifteen'' in the heading of paragraph (a), by revising the number ''12'' to read ''15'' in paragraphs (a), (c)(2) and (d)(2), and by revising the number ''18'' to read ''16'' in paragraphs (c)(1) and (d)(1).

3. In Subpart F, § 51.80, is revised to read as follows:

**§ 51.80 The applicability of §§ 51.81 through 51.89.**

(a) The provisions of §§ 51.81 through 51.89 do not apply to any action of the Secretary of State taken on an individual basis in denying, restricting, revoking or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport by reason of:

(1) Noncitizenship,
(2) Refusal under the provisions of § 51.70(a)(8),
(3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or
(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.
(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subjects of adverse action under §§ 51.70, 51.71 or 51.72.

Dated: June 2, 2000.

**Mary A. Ryan,**

*Assistant Secretary for Consular Affairs, Department of State.*

[FR Doc. 00–16089 Filed 6–23–00; 8:45 am]

**BILLING CODE 4710–06–P**

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 938

**[PA–129–FOR]**

## Pennsylvania Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule.

**SUMMARY:** OSM is approving an amendment to the Pennsylvania regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The amendment revises certain portions of 25 Pennsylvania Code Chapter 86, Surface and Underground Mining: General; Chapter 87, Surface Mining of Coal; Chapter 88, Anthracite Coal; Chapter 89, Underground Mining of Coal and Coal Preparation Facilities; and Chapter 90, Coal Refuse Disposal. The amendments are intended to revise the Pennsylvania program to be consistent with the corresponding Federal regulations.

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert J. Biggi, Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack), 415 Market Street, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Pennsylvania Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

### I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. You can find background on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the July 30, 1982 **Federal Register** (47 FR 33079). Subsequent actions concerning the regulatory program amendments are codified at 30 CFR 938.11, 938.15 and 938.16.

### II. Submission of the Amendment

By letter dated November 30, 1999 (Administrative Record No. PA–849.02), the Pennsylvania Department of Environmental Protection (PADEP) submitted an amendment to its approved permanent regulatory program pursuant to the Federal regulations at 30 CFR 732.17(b). Pennsylvania did so as a result of its Regulatory Basics Initiative (RBI) intended to revise regulations considered to be unclear, unnecessary or more stringent than the corresponding Federal regulation. The proposed rulemaking was published in the December 17, 1999 **Federal Register** (64 FR 70644). The public comment period closed on January 18, 2000. No one requested to speak at a public hearing, so no hearing was held.

### III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendments to the Pennsylvania regulatory program. Revisions not specifically discussed below concern paragraph notations to reflect organizational changes resulting from this amendment.

PADEP is amending certain provisions of 25 Pennsylvania Code, Chapters 86 through 90, as follows:

*Chapter 86, Surface and Underground Coal Mining: General*

*Section 86.2 Scope*

PADEP is correcting a grammatical error by changing the word ''specify'' to ''specifies'' in the opening paragraph. This is a non-substantive change that does not require OSM approval.

*Section 86.37 Criteria for Permit Approval or Denial*

PADEP is modifying subdivision (a)(4) to assure activities proposed under the application have been designed to prevent material damage to the hydrologic balance outside the proposed permit area, while eliminating the reference to damage to the hydrologic balance within the permit area, by adding the word ''material'' before ''damage'' and eliminating the words ''within and'' before the word ''outside''. The Director finds that the changes described above render § 86.37(a)(4) substantively identical to and therefore no less effective than the corresponding portion of the Federal provision at 30 CFR 773.15(c)(5).

PADEP is modifying subdivision (a)(6) regarding the effects of proposed coal mining activities on properties listed on or eligible for listing on the National Register of Historic Places by deleting the phrase ''or eligible for inclusion on'' from the second sentence and re-ordering the sentences. The first two sentences of subdivision (6) now state that ''[t]he proposed activities will not adversely affect any publicly owned parks or places included on the National Register of Historic Places, except as provided for in Subchapter D. The effect of the proposed coal mining activities on properties listed on or eligible for listing on the National Register of Historic Places has been taken into account by the Department''. The Director finds that the changes described above render § 86.37(a)(6) substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 773.15(c)(3) and 761.11(c).

*Section 86.40 Permit Terms*

PADEP is modifying subsection (b) by adding criteria under which the Department may grant an extension of time for commencement of mining activities by adding the phrase ''or if there are conditions beyond the control and without the fault or negligence of the permittee.'' The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 773.19(e)(2)(ii).

*Section 86.64 Right of Entry*

PADEP is modifying this section by adding additional criteria for documenting right of entry by adding the following sentence to subsection (a): ''The description shall identify the documents by type and date of execution, identify the specific lands to which the document pertains and explain the legal rights claimed by the applicant''. Existing subdivisions (b)(1) and (2) are eliminated and new subdivisions (b)(1) through (3) are added specifying the documents

required. New subsection (c) states that ''[t]his section shall not be construed to provide the Department with the authority to adjudicate property rights disputes''. Existing subsection (c) is re-lettered as (d), new subdivision (d)(3) is added to state that the requirements of subsection (d) are in addition to the requirements required by subsections (a) and (b), and existing subsections (d) and (e) are re-lettered as (e) and (f), respectively. Subsection (f) is amended to state that all information required in § 86.64 shall be made part of the permit application. The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 778.15(b) and (c), except for subdivision (d)(3), which has no Federal counterpart. However, subdivision (d)(3) is not inconsistent with 30 CFR 778.15, since it provides that the right of entry requirements of subsection (d), which also have no Federal counterparts, are in addition to, (and therefore do not supersede), the requirements contained in subsections (a) and (b). Also, the Director finds that new subdivisions (b)(2) and (b)(3) satisfy the required amendment at 30 CFR 938.16(ll), which is hereby removed.

*Section 86.70 Proof of Publication*

PADEP is modifying this section to require that a permit application to the Department shall contain an intent to publish, and a copy of the language to appear in the public notice as well as a copy of the advertisements or the original notarized proof of publication. The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 778.13(a) and 778.21, except that § 86.70 also requires a statement of ''intent to publish,'' which is not required in the Federal regulations. However, since this requirement is in addition to the Federal requirements, it is not inconsistent with the Federal regulations.

*Section 86.132 Definitions*

PADEP is modifying the definition of ''substantially disturb,'' with respect to coal exploration, by adding the word ''significant'' before ''impact,'' in order to limit its application to coal exploration activities that have a significant impact on land, air or water resources. The relevant portion of the definition now reads ''For purposes of coal exploration, including, but not limited to, to have a *significant* impact upon land, air or water resources * * *'' (Emphasis added)

The Director finds that the change described above brings the State's definition, which OSM previously found to be substantively identical to its Federal counterpart at 30 CFR 701.5 (58 FR 18149, 18151, April 8, 1993), into conformity with the precise language of the Federal definition.

*Section 86.133 General Requirements for Coal Exploration*

PADEP is modifying subsection (e) to include a metric tonnage equivalent to the 250 ton limit for coal exploration that may be allowed without a permit, to change the words ''less than'' to ''or less,'' and to change the words ''or more'' to ''more than.'' The effect of the changes is to allow the department to waive the permitting requirement, to enable coal properties testing and analysis, where 250 tons (226 metric tons) of coal or less are removed, but to require a permit for the removal of more than 250 tons (226 metric tons) of coal. The Director finds that the changes do not render § 86.133(e) less effective than the Federal Regulations at 30 CFR 772.11 and 772.12. However, the required amendment at 30 CFR 938.16(ccc) remains unsatisfied.

*Section 86.134 Coal Exploration Performance and Design Standards*

PADEP is modifying this section by eliminating existing subdivisions (2) and (3) that required the person conducting coal exploration to measure environmental characteristics during the operations and to limit vehicular traffic, and adding new subdivision (2) that states ''Roads used for coal exploration shall comply with the following: * * *'' Existing subdivisions (4) and (5) are re-numbered as (3) and (4), existing subdivision (6), which requires revegetation of areas disturbed by coal exploration to be performed by the person who conducts the exploration, or by his agent, is eliminated and new subdivision (5) is added as follows: ''All areas disturbed by coal exploration activities shall be vegetated in a manner that encourages prompt revegetation and recovery of a diverse, effective and permanent vegetative cover''. Additionally, existing subdivisions (7) through (12) are re-numbered as (6) through (11) respectively. The Director finds that the changes described above are substantively identical to and therefore no less effective than their Federal regulatory counterparts at 30 CFR 815.15(b) and (e).

*Section 86.174 Standards for Release of Bonds*

PADEP is modifying subdivision (b)(1) to clarify the standards for Stage 2 bond release by requiring that topsoil and revegetation be successfully completed in accordance with the reclamation plan. The phrase ''and the standards for the success of revegetation are met'' is eliminated. The Director finds that the change described above renders subdivision (b)(1) substantively identical to and therefore no less effective than the corresponding Federal regulatory language contained in the Federal Regulations at 30 CFR 800.40(c)(2).

*Chapter 87, Surface Mining of Coal*

*Section 87.1 Definitions*

PADEP is adding, at new subsection (x), a definition of ''unmanaged natural habitat.'' The term is defined as idle land which does not require a specific management plan after the reclamation and revegetation have been accomplished. Although the Federal Regulations do not have a direct counterpart, the Director finds the State's definition to be consistent with the definition of ''undeveloped land or no current use or land management'' at 30 CFR 701.5.

*Section 87.77 Protection of Public Parks and Historic Places*

PADEP is modifying subsection (a) by specifying that the permit application requirements to include protective measures apply to publicly owned parks or historic places that are listed on the National Register of Historic Places, and that may be adversely affected by the proposed operations. The Director finds that the changes described render the introductory language of subsection (a) substantively identical to and therefore no less effective than the corresponding introductory language contained in 30 CFR 780.31(a).

*Section 87.93 Casing and Sealing of Drilled Holes*

PADEP is modifying subdivision (a)(2) by requiring that exploration holes, other drilled or boreholes, wells or other exposed underground openings be cased, sealed or otherwise managed in order to ''minimize,'' rather than to ''prevent to the maximum extent possible,'' damage to the prevailing hydrologic balance. The Director finds that this change renders subdivision (a)(2) substantively identical to and therefore no less effective than corresponding language contained in the Federal Regulations at 30 CFR 816.13.

PADEP is modifying subdivision (e)(2)(iii) pertaining to when the Department may approve lesser distances for the barrier of undisturbed earth, by deleting the existing language

and adding the following: ''The measures included in the permit to minimize damage, destruction or disruption of services pursuant to § 87.173(b) are implemented.'' At subsection (e), the minimum required radius for the solid barrier of undisturbed earth that must surround oil and gas wells is now also being expressed in meters, in addition to feet. The Director finds that, while subdivision (e)(2)(iii) has no direct Federal counterpart, the proposed amendments thereto do not render it inconsistent with the Federal Regulations at 30 CFR 816.13.

*Section 87.97 Topsoil: Removal*

PADEP is modifying subsection (c) by including a metric conversion figure, in centimeters, which corresponds to the 12 inch topsoil thickness threshold, which if not in existence triggers the requirement to remove, segregate, conserve and replace a twelve inch layer that includes topsoil and other unconsolidated materials as the final surface soil layer. A centimeter measurement is also added for the 12-inch thickness threshold for topsoil and unconsolidated material combined, which if not in existence triggers the requirement to remove, segregate, conserve and replace the topsoil and all unconsolidated materials as the final surface soil layer. These changes are nonsubstantive in nature and do not require OSM approval.

Subsection (f), which currently pertains to ''subsoil'' substitution requirements, is amended to pertain to ''topsoil'' substitution requirements. The Director finds that this change renders section 86.97 substantively identical to and therefore no less effective than the counterpart language contained in the Federal Regulations at 30 CFR 816.22(b).

*Section 87.101 Hydrologic Balance: General Requirements*

PADEP is modifying subsection (a), which currently requires that surface activities be planned and conducted to ''prevent to the maximum extent possible'' disturbances to the prevailing hydrologic balance in the permit and adjacent area. As modified, subsection (a) will require that surface activities be planned and conducted to ''minimize'' such disturbances. This subsection is further modified by the addition of a requirement that surface mining activities shall be planned and conducted to prevent material damage to the hydrologic balance outside the permit area. Finally, the PADEP added a provision allowing it to require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented. The Director finds that the changes described above render subsection (a) substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 816.41(a).

*Section 87.106 Hydrologic Balance: Sediment Control Measures*

PADEP is modifying subdivision (1) to require prevention of contributions of sediment to streamflow or runoff to the ''extent possible,'' rather than to the ''maximum extent possible,'' by deleting the word ''maximum.'' The Director finds that this change renders subdivision (1) substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 816.45(a)(1).

PADEP is also modifying subdivision (3) by changing the language of the requirement from ''Prevent erosion to the maximum extent possible'' to ''Minimize erosion to the extent possible.'' The Director finds that this change renders subdivision (3) substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.45(a)(3).

*Section 87.126 Use of Explosives: Public Notice of Blasting Schedule*

PADEP is modifying subsection (a) by allowing publication of the blasting schedule in a newspaper of general circulation up to 30 days before beginning a blasting program instead of the existing 20 day period. The Director finds that the change renders subsection (a) substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.64(b)(1).

*Section 87.127 Use of Explosives: Surface Blasting Requirements*

PADEP is modifying subdivision (f)(5) by deleting the prohibition against casting flyrock beyond the ''line of property owned or leased by the permittee,'' and by making the permit boundary the limit beyond which flyrock may not be cast. The Director finds that the change renders subdivision (f)(5) substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.67(c)(3).

*Section 87.138 Protection of Fish, Wildlife and Related Environmental Values*

PADEP is modifying this section to require a person conducting surface mining activities to, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife and related environmental values, locate and operate haul and access roads to avoid or minimize impacts to fish and wildlife or other protected species, and to avoid disturbance to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife. Prior to these proposed amendments, this section required that activities use the best technology currently available to prevent such disturbances and adverse impacts. The Director finds that the changes described above render section 87.138 substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.97(a) and (e)(2), and to the portion of 30 CFR 816.97(f) that pertains to habitats of unusually high value. PADEP is also modifying subsection (b) by changing the name of the Fish Commission to the Fish and Boat Commission. As modified, subsection (b) remains substantively identical to and therefore no less effective than the corresponding language contained in the Federal regulations at 30 CFR 816.97(b).

*Section 87.144 Backfilling and Grading: Final Slopes*

PADEP is modifying subsection (c) by deleting subdivisions (1) through (4) enumerating requirements for terraces. The Director finds that the deletions of these subdivisions, which have no Federal counterparts, do not render subsection (c) less effective than the Federal regulations at 30 CFR 816.102(g)(1). PADEP is also modifying subsection (f) by eliminating specific grading, preparation of overburden, and placement of topsoil requirements pertaining to placement in a direction other than parallel when parallel placement creates hazards to equipment operators. The Director finds that the deletion of these requirements, which have no direct Federal counterparts, does not render the state regulations less effective than the Federal Regulations at 30 CFR 816.102(j).

*Section 87.146 Regrading or Stabilizing Rills and Gullies*

PADEP is eliminating the existing subsection and substituting the following new subsections:

(a) Exposed surface areas shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

(b) Rills and gullies, which form in areas that have been regraded and topsoiled and which do one of the following shall be filled, regraded and otherwise stabilized:

(1) Disrupt the approved postmining land use or the reestablishment of the vegetative cover.

(2) Cause or contribute to a violation of water quality standards for receiving streams.

(c) For the areas listed in subsection (b), the topsoil shall be replaced and the areas shall be reseeded or replanted.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.95(a) and (b).

*Section 87.159 Postmining Land Use*

PADEP is modifying subsection (b) by eliminating subdivisions (3) and (4) pertaining to land that has received improper management or was changed within 5 years of the beginning of mining. These deleted subdivisions have no Federal counterparts.

PADEP is also adding new subdivision (c)(3) as follows: ''The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria * * *.'' Criteria currently identified in subdivisions (c)(3), (4), and (5) are re-lettered as (i), (ii) and (iii) respectively, under new subdivision (c)(3).

PADEP is also eliminating subdivision (c)(6) pertaining to certification of plans for postmining land use by a registered professional engineer. This deleted subdivision has no Federal counterparts pertaining to postmining land uses in general. Existing subdivisions (c)(7), (8) and (9) are re-numbered as (c)(4), (5) and (6), respectively. The Director finds that the changes described above do not render section 87.159 less effective than the Federal Regulations at 30 CFR 816.133(b) and (c)(1).

*Section 87.160 Haul Roads and Access Roads*

PADEP is modifying subsection (a) by eliminating the phrase ''prevent, to the maximum extent possible'', and substituting the words ''control or prevent'' prior to ''erosion and contributions of sediment to streams or runoff * * *''. The Director finds that the changes described above render subsection (a) substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 816.150(b)(1).

*Section 87.166 Haul Roads and Access Roads: Restoration*

PADEP is modifying this section by deleting the requirement that roads not to be retained for the approved postmining land use be reclaimed ''immediately'' after the road is no longer needed for the associated surface mining activities, and substituting a requirement that such reclamation occur ''as soon as practicable.''

PADEP is also modifying subdivision (4) by eliminating the requirement that roadbeds be plowed. The subdivision now reads ''Roadbeds shall be ripped or scarified.'' The Director finds that the changes described render section 87.166 substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 816.150(f) and (f)(6).

*Section 87.173 Support Facilities and Utility Installations*

PADEP is modifying subsection (a) by eliminating criteria from the opening paragraph and deleting subdivisions (1) and (2). The deleted criteria have no Federal regulatory counterparts. PADEP is also adding new subdivisions (1) and (2), which require that support facilities be located, maintained and used in a manner that:

(1) Prevents or controls erosion and siltation, water pollution, and damage to public or private property.

(2) To the extent possible using the best technology currently available:

(i) Minimizes damage to fish, wildlife and related environmental values.

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. These contributions may not be in excess of limitations of State or Federal law.

The Director finds that the changes described above render section 87.173 substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.181(b).

*Section 87.174 Steep Slope Operations*

PADEP is eliminating subsection (g), which prohibits construction of unlined or unprotected drainage channels on backfilled areas unless approved by the PADEP as stable and not subject to erosion. This subsection has no direct Federal counterpart. The Director finds that the deletion of subsection (g) does not render section 87.174 less effective than the Federal Regulations at 30 CFR 816.107.

*Section 87.176 Auger Mining*

PADEP is deleting subsection (d), which prohibits auger mining to the rise of the coal unless it is demonstrated to the PADEP's satisfaction that drainage from the auger hole will not pose a pollution threat to surface waters and will comply with applicable effluent standards. Subsection (d) has no direct Federal counterpart. Existing subsection (e) is re-lettered as (d), and contains non-substantive changes in wording that are intended to improve the clarity of the subsection. The Director finds that the changes described above do not render section 87.176 less effective than the Federal Regulations at 30 CFR 819.11.

*Section 87.209 Criteria and Schedule for Release of Bonds on Pollution Abatement Areas of Remining Operations*

PADEP is modifying subsection (a), which pertains to the first phase of release of the bond for the pollution abatement area, by raising the amount of the bond that may be released from 50% to 60%, where the operator has not caused degradation of the baseline pollution load at any time during a period of six months prior to the bond release request, and until bond release is approved as shown by all ground and surface water monitoring. PADEP is modifying subsection (b), which pertains to the second phase of release of the bond for the pollution abatement area, by deleting the phrase that allows the additional release of up to 35% of the amount of the bond and substituting the phrase that additional funds can be released, but that the Department will retain an amount sufficient to cover the cost to the Department of reestablishing vegetation if completed by a third party.

Next, PADEP is also modifying subdivision (b)(3)(ii)(A)(I) so that an operator can receive approval for the second phase of bond release where it demonstrates that it has not caused degradation of the baseline pollution load for a period of twelve months prior to the application for bond release and until bond release is approved.

Finally, PADEP is modifying subdivision (c)(4) pertaining to the release of the remaining portion of the bond by deleting the requirement to measure the applicable liability period from the date of release of the second phase of the bond. The Director finds that the changes described above do not render section 87.209 less effective than the general bond release criteria contained in the Federal regulations at 30 CFR 800.40(c).

*Chapter 88, Anthracite Coal*

*Section 88.1 Definitions*

PADEP is adding, at new subsection (x), a definition of ''unmanaged natural habitat.'' The term is defined as idle land which does not require a specific management plan after the reclamation and revegetation have been accomplished. Although the Federal Regulations do not have a direct counterpart, the Director finds the State's definition to be consistent with the definition of ''undeveloped land or no current use or land management'' at 30 CFR 701.5.

*Section 88.56 Protection of Public Parks and Historic Places*

PADEP is modifying subsection (a) by specifying that the permit application requirements to include protective measures apply to publicly owned parks or historic places that are listed on the National Register of Historic Places, and that may be adversely affected by the proposed operations. The Director finds that the changes described above render the introductory language of subsection (a) substantively identical to and therefore no less effective than the corresponding introductory language contained in 30 CFR 780.31(a).

*Section 88.83 Sealing of Drilled Holes: General Requirements*

PADEP is modifying subdivision (a)(2) by requiring that exploration holes, other drilled or boreholes, wells or other exposed underground openings be sealed or otherwise managed in order to ''minimize,'' rather than to ''prevent to the maximum extent possible,'' damage to the prevailing hydrologic balance. PADEP is modifying subdivision (e)(2)(iii) pertaining to when the Department may approve lesser distances for the barrier of undisturbed earth, by deleting the existing language and adding the following: ''The measures included in the permit to minimize damage, destruction or disruption of services are implemented.'' In subsection (e), the minimum required radius for the solid barrier of undisturbed earth that must surround oil and gas wells is now also being expressed in meters, in addition to feet. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.91 Hydrologic Balance: General Requirements*

PADEP is modifying subsection (a), which currently requires that surface activities be planned and conducted to ''prevent to the maximum extent possible'' disturbances to the prevailing hydrologic balance in the permit and adjacent area. As modified, subsection (a) will require that surface activities be planned and conducted to ''minimize'' such disturbances. This subsection is further modified by the addition of a requirement that surface mining activities shall be planned and conducted to prevent material damage to the hydrologic balance outside the permit area. Finally, the PADEP added a provision allowing it to require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.96 Hydrologic Balance: Sediment Control Measures*

PADEP is modifying subdivision (l) to require prevention of contributions of sediment to streamflow or runoff to the ''extent possible,'' rather than to the ''maximum extent possible,'' by deleting the word ''maximum.'' PADEP is also modifying subdivision (3) by changing the language of the requirement from ''Prevent erosion to the maximum extent possible'' to ''Minimize erosion to the extent possible.'' In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.118 Backfilling and Grading: Final Slopes*

PADEP is modifying subsection (c) by deleting subdivisions (1) through (4) enumerating requirements for terraces. PADEP is also modifying subsection (f) by eliminating specific grading, preparation of overburden, and placement of topsoil requirements pertaining to placement in a direction other than parallel when parallel placement creates hazards to equipment operators. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.133 Postmining Land Use*

PADEP is modifying subsection (a) by deleting the reference to Subchapter E (relating to coal exploration) and adding the reference to Subchapter F (relating to bonding and insurance requirements), thereby clarifying that affected areas be restored to conditions capable of supporting the uses they were capable of supporting prior to mining, or that they be restored to higher or better uses, prior to bond release. PADEP is also modifying subsection (b) by eliminating subdivisions (3) and (4) pertaining to land that has received improper management or was changed within 5 years of the beginning of mining. PADEP is also adding new subdivision (3) as follows: ''The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria * * *.'' Criteria currently identified in subdivisions (3) and (4) are re-lettered as (i) and (ii), respectively, under new subdivision (3). PADEP is also eliminating subdivision (5) pertaining to certification of plans for postmining land use by a registered professional engineer. Existing subdivisions (6), (7) and (8) are re-numbered as (4), (5) and (6), respectively. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.138 Haul Roads and Access Roads: General*

PADEP is modifying subsection (a) by eliminating the phrase ''prevent, to the maximum extent possible,'' and substituting the words ''control or prevent'' prior to ''erosion and contributions of sediment to streams or runoff * * *''. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving this amendment to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.144 Haul Roads and Access Roads: Restoration*

PADEP is modifying this section by deleting the requirement that roads not to be retained for the approved postmining land use be reclaimed ''immediately'' after the road is no longer needed for the associated surface mining activities, and substituting a requirement that such reclamation occur

''as soon as practicable.'' In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving this amendment to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.191 Hydrologic Balance: Sediment Control Measures*

PADEP is modifying subdivision (l) to require prevention of contributions of sediment to streamflow or runoff to the ''extent possible,'' rather than to the ''maximum extent possible,'' by deleting the word ''maximum.'' PADEP is also modifying subdivision (3) by changing the language of the requirement from ''Prevent erosion to the maximum extent possible'' to ''Minimize erosion to the extent possible.'' In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.221 Postmining Land Use*

PADEP is modifying subsection (b) by eliminating subdivisions (3) and (4) pertaining to land that has received improper management or was changed within 5 years of the beginning of mining. PADEP is also adding new subdivision (c)(3) as follows: ''The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria.'' Criteria currently identified in subdivisions (3) and (4) are re-lettered as (i) and (ii), respectively, under new subdivision (3).

PADEP is also eliminating subdivision (5) pertaining to certification of plans for postmining land use by a registered professional engineer. Existing subdivisions (6), (7) and (8) are re-numbered as (4), (5) and (6), respectively. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.231 Haul Roads and Access Roads: General*

PADEP is modifying subsection (a) by eliminating the phrase ''prevent, to the maximum extent possible,'' and substituting the words ''control or prevent'' prior to ''erosion and contributions of sediment to streams or runoff * * *''. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving this amendment to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.237 Haul Roads and Access Roads: Restoration*

PADEP is modifying this section by deleting the requirement that roads not to be retained for the approved postmining land use be reclaimed ''immediately'' after the road is no longer needed for the associated surface mining activities, and substituting a requirement that such reclamation occur ''as soon as practicable.'' In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving this amendment to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.283 Sealing of Drilled Holes: General Requirements*

PADEP is modifying subdivision (e)(2)(iii) pertaining to when the Department may approve lesser distances for the barrier of undisturbed earth, by deleting the existing language and adding the following: ''The measures included in the permit to minimize damage, destruction or disruption of services are implemented.'' In subsection (e), the minimum required radius for the solid barrier of undisturbed earth that must surround oil and gas wells is now also being expressed in meters, in addition to feet. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.291 Hydrologic Balance: General Requirements*

PADEP is modifying subsection (a), which currently requires that surface activities be planned and conducted to ''prevent to the maximum extent possible'' disturbances to the prevailing hydrologic balance in the permit and adjacent area. As modified, subsection (a) will require that surface activities be planned and conducted to ''minimize'' such disturbances. This subsection is further modified by the addition of a requirement that surface mining activities shall be planned and conducted to prevent material damage to the hydrologic balance outside the permit area. Finally, the PADEP added a provision allowing it to require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.296 Hydrologic Balance: Sediment Control Measures*

PADEP is modifying subdivision (l) to require prevention of contributions of sediment to streamflow or runoff to the ''extent possible,'' rather than to the ''maximum extent possible,'' by deleting the word ''maximum.'' In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving this amendment to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.334 Postdisposal Land Use*

PADEP is modifying subsection (a) by changing the reference from ''this section (bonds)'' to ''Chapter 86, Subchapter F, (relating to bonding and insurance requirements).''

PADEP is modifying subsection (b) by eliminating subdivisions (3) and (4) pertaining to land that has received improper management or was changed within 5 years of the beginning of mining.

PADEP is also modifying subdivision (c)(1) by deleting the reference to ''surface mining'' and substituting ''coal refuse disposal.''

PADEP is also adding new subdivision (c)(3) as follows: ''The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria.'' Criteria currently identified in subdivisions (3) and (4) are re-lettered as (i) and (ii) respectively, under new subdivision (3), and (i) is further changed by deleting the reference to ''surface mining'' and substituting ''coal refuse disposal.''

PADEP is also eliminating subdivision (5) pertaining to certification of plans for postdisposal land use by a registered professional engineer. Existing subdivisions (6), (7), and (8) are re-numbered as (4), (5) and (6), respectively. In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving these amendments to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.335 Haul Roads and Access Roads: General*

PADEP is modifying subsection (a) by eliminating the phrase ''prevent, to the maximum extent possible,'' and substituting the words ''control or prevent'' prior to ''erosion and contributions of sediment to streams or runoff. * * *'' In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving this amendment to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.341 Haul Roads and Access Roads: Restoration*

PADEP is modifying this section by deleting the requirement that roads not to be retained for the approved postmining land use be reclaimed ''immediately'' after the road is no longer needed for the associated surface mining activities, and substituting a requirement that such reclamation occur ''as soon as practicable.'' In accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11, the Director is approving this amendment to the special permanent program performance standards for anthracite mines in Pennsylvania.

*Section 88.492 Minimum Requirements For Reclamation and Operation Plan*

PADEP is modifying subdivision (f)(1) by specifying that the permit application requirements to include protective measures apply to publicly owned parks or historic places that are listed on the National Register of Historic Places, and that may be adversely affected by the proposed operations. The Director finds that the changes described above render the introductory language of subsection (a) substantively identical to and therefore no less effective than the corresponding introductory language contained in 30 CFR 780.31(a).

*Section 88.509 Criteria and Schedule for Release of Bonds on Pollution Abatement Areas of Remining Operations*

PADEP is modifying subsection (a), which pertains to the first phase of release of the bond for the pollution abatement area, by raising the amount of the bond that may be released from 50% to 60%, where the operator has not caused degradation of the baseline pollution load at any time during a period of six months prior to the bond release request, and until bond release is approved as shown by all ground and surface water monitoring. PADEP is modifying subsection (b), which pertains to the second phase of release of the bond for the pollution abatement area, by deleting the phrase that allows the additional release of up to 35% of the amount of the bond and substituting the phrase that additional funds can be released, but that the Department will retain an amount sufficient to cover the cost to the Department of reestablishing vegetation if completed by a third party.

Next, PADEP is also modifying subdivision (b)(3)(ii)(A)(I) so that an operator can receive approval for the second phase of bond release where it demonstrates that it has not caused degradation of the baseline pollution load for a period of twelve months prior to the application for bond release and until bond release is approved.

Finally, PADEP is modifying subdivision (c)(4) pertaining to the release of the remaining portion of the bond by deleting the requirement to measure the applicable liability period from the date of release of the second phase of the bond. The Director finds that the changes described above do not render section 88.509 less effective than the general bond release criteria contained in the Federal regulations at 30 CFR 800.40(c).

*Chapter 89, Underground Mining of Coal and Coal Preparation Facilities*

*Section 89.38 Archaeological and Historical Resources and Public Parks*

PADEP is changing the title of this section to Archaeological and historical resources, public parks and publicly owned parks.

PADEP is modifying subsection (b) by specifying that the permit application requirements to include protective measures apply to publicly owned parks or historic places that are listed on the National Register of Historic Places, and that may be adversely affected by the proposed operations. The Director finds that the changes described above render the introductory language of subsection (b) substantively identical to and therefore no less effective than the corresponding introductory language contained in 30 CFR 784.17(a).

*Section 89.65 Protection of Fish, Wildlife and Related Environmental Values*

PADEP is modifying this section to require a person conducting surface mining activities to, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife and related environmental values, locate and operate haul and access roads to avoid or minimize impacts to fish and wildlife or other protected species, and to avoid disturbance to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife. Prior to these proposed amendments, this section required that activities use the best technology currently available to prevent such disturbances and adverse impacts. The Director finds that the changes described above render section 89.65 substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 817.97(a) and (e)(2), and at the portion of 30 CFR 817.97(f) that pertains to habitats of unusually high value.

*Section 89.67 Support Facilities*

PADEP is modifying subsection (a) by eliminating criteria from the opening paragraph and deleting subdivisions (1) and (2). The deleted criteria have no Federal regulatory counterparts. PADEP is also adding new subdivisions (1) and (2), which require that support facilities be located, maintained and used in a manner that:

(1) Prevents or controls erosion and siltation, water pollution, and damage to public or private property.

(2) To the extent possible using the best technology currently available:

(i) Minimizes damage to fish, wildlife and related environmental values.

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. These contributions may not be in excess of limitations of State or Federal law.

The Director finds that the changes described above render section 89.67 substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 817.181(b).

*Section 89.82 Protection of Fish, Wildlife and Related Environmental Values*

PADEP is modifying this section to require a person conducting surface mining activities to, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife and related environmental values. Prior to this proposed amendment, this section required that activities use the best technology currently available to prevent such disturbances and adverse impacts. The Director finds that the changes described above render section 89.82 substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 817.97(a).

PADEP is also modifying subsections (b) and (e) by changing the name of the Fish Commission to the Fish and Boat Commission. As modified, subsections (b) and (e) remain substantively identical to and therefore no less effective than the corresponding language contained in the Federal regulations at 30 CFR 817.97(b).

*Section 89.87 Regrading or Stabilizing Rills and Gullies*

PADEP is eliminating the existing subsections and substituting the following new subsections:

(a) Exposed surface areas shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

(b) Rills and gullies, which form in areas that have been regraded and topsoiled and which do one of the following shall be filled, regraded and otherwise stabilized:

(1) Disrupt the approved postmining land use or the reestablishment of the vegetative cover.

(2) Cause or contribute to a violation of water quality standards for receiving streams.

(c) For the areas listed in subsection (b), the topsoil shall be replaced and the areas shall be reseeded or replanted.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 817.95.

*Section 89.88 Postmining Land Use*

PADEP is modifying subsection (b) by eliminating subdivisions (2) and (3) pertaining to land that has received improper management or was changed within 5 years of the beginning of mining. These deleted subdivisions have no Federal counterparts.

PADEP is also adding new subdivision (c)(2) as follows: ''The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria.'' The criteria, which are part of the existing program, are now included in subdivision (c)(2), following the above-quoted introductory sentence.

PADEP is also eliminating subdivision (c)(3) pertaining to certification of plans for postmining land use by a registered professional engineer. This deleted subdivision has no Federal counterpart. Existing subdivisions (c)(4), (5), (6) and (7) are re-numbered as (c)(3), (4), (5) and (6), respectively.

The Director finds that the changes described above do not render section 89.88 less effective than the Federal Regulations at 30 CFR 817.133(b) and (c)(1).

*Section 89.90 Restoration of Roads*

PADEP is modifying subsection (a) by deleting the requirement that roads not to be retained for the approved postmining land use be reclaimed ''immediately'' after the road is no longer needed for the associated surface mining activities, and substituting a requirement that such reclamation occur ''as soon as practicable.''

PADEP is also modifying subdivision (a)(4) by eliminating the requirement that roadbeds be plowed. The subdivision now reads ''Roadbeds shall be ripped or scarified.'' The Director finds that the changes described render section 89.90 substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 817.150(f) and (f)(6).

*Chapter 90, Coal Refuse Disposal*

*Section 90.1 Definitions*

PADEP is adding, at new subsection (x), a definition of ''unmanaged natural habitat.'' The term is defined as idle land which does not require a specific management plan after the reclamation and revegetation have been accomplished. Although the Federal Regulations do not have a direct counterpart, the Director finds the State's definition to be consistent with the definition of ''undeveloped land or no current use or land management'' at 30 CFR 701.5.

*Section 90.40 Protection of Public Parks and Historic Places*

PADEP is modifying subsection (a) by specifying that the permit application requirements to include protective measures apply to publicly owned parks or historic places that are listed on the National Register of Historic Places, and that may be adversely affected by the proposed operations. The Director finds that the changes described above render the introductory language of subsection (a) substantively identical to and therefore no less effective than the corresponding introductory language contained in 30 CFR 780.31(a).

*Section 90.93 Casing and Sealing of Drilled Holes and Underground Workings.*

PADEP is modifying subsection (d) by deleting the reference to the requirements of the Gas Operations, Well-Drilling, Petroleum and Coal Mining Act (52 P.S. §§ 2101–2602) and adding a reference to the Oil and Gas Act (58 P.S. §§ 601.101–601.605). While this subsection has no precise Federal counterpart, the Director finds that the change in statutory cross-references does not render it inconsistent with the Federal regulations at 30 CFR 816.13.

PADEP is modifying subdivision (e)(2)(iii) pertaining to when the Department may approve lesser distances for the barrier of undisturbed earth, by deleting the existing language and adding the following: ''The measures included in the permit to minimize damage, destruction or disruption of services pursuant to 90.147(b) are implemented.'' At subsection (e), the minimum required radius for the solid barrier of undisturbed earth that must surround oil and gas wells is now also being expressed in meters, in addition to feet. The Director finds that, while subdivision (e)(2)(iii) has no direct Federal counterpart, the proposed amendments thereto do not render it inconsistent with the Federal Regulations at 30 CFR 816.13.

*Section 90.97 Topsoil: Removal*

PADEP is modifying subsection (c) by including a metric conversion figure, in centimeters, which corresponds to the 12 inch topsoil thickness threshold, which if not in existence triggers the requirement to remove, segregate, conserve and replace a twelve inch layer that includes topsoil and other unconsolidated materials as the final surface soil layer. A centimeter measurement is also added for the 12-inch thickness threshold for topsoil and unconsolidated material combined, which if not in existence triggers the requirement to remove, segregate, conserve and replace the topsoil and all unconsolidated materials as the final surface soil layer. These changes are nonsubstantive in nature and do not require OSM approval.

Subsection (f) is amended, at the end of the second sentence, by deleting the word ''subsoil'' and replacing it with the word ''topsoil.'' The Director finds that this change renders section 90.97 substantively identical to and therefore no less effective than the counterpart language contained in the Federal Regulations at 30 CFR 816.22(b).

*Section 90.101 Hydrologic Balance: General Requirements*

PADEP is modifying subsection (a), which currently requires that surface activities be planned and conducted to ''prevent to the maximum extent possible'' disturbances to the prevailing hydrologic balance in the permit and adjacent area. As modified, subsection (a) will require that surface activities be planned and conducted to ''minimize'' such disturbances. This subsection is

further modified by the addition of a requirement that surface mining activities shall be planned and conducted to prevent material damage to the hydrologic balance outside the permit area. Finally, the PADEP added a provision allowing it to require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented. The Director finds that the changes described above render subsection (a) substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 816.41(a).

*Section 90.106 Hydrologic Balance: Erosion and Sedimentation Control*

PADEP is modifying subdivision (a)(l) to require prevention of contributions of sediment to streamflow or runoff to the ''extent possible,'' rather than to the ''maximum extent possible,'' by deleting the word ''maximum.'' The Director finds that this change renders subdivision (a)(1) substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 816.45(a)(1).

PADEP is also modifying subdivision (3) by changing the language of the requirement from ''Prevent erosion to the maximum extent possible'' to ''Minimize erosion to the extent possible.'' The Director finds that this change renders subdivision (3) substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.45(a)(3).

*Section 90.134 Haul Roads and Access Roads: General*

PADEP is modifying subsection (a) by eliminating the phrase ''prevent, to the maximum extent possible'', and substituting the words ''control or prevent'' prior to ''contributions of sediment to streams or runoff * * *''. The Director finds that the changes described above render subsection (a) substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 816.150(b)(1), with one exception. In amending this subsection, the PADEP deleted any requirement with respect to erosion. Therefore, the Director is requiring that Pennsylvania amend its performance standards for coal refuse disposal to require that haul roads and access roads be designed, constructed and maintained to control or prevent erosion.

*Section 90.140 Haul Roads and Access Roads: Restoration*

PADEP is modifying this section by deleting the requirement that roads not to be retained for the approved postmining land use be reclaimed ''immediately'' after the road is no longer needed for the associated surface mining activities, and substituting a requirement that such reclamation occur ''as soon as practicable.''

PADEP is also modifying subdivision (4) by eliminating the requirement that roadbeds be plowed. The subdivision now reads ''Roadbeds shall be ripped or scarified.'' The Director finds that the changes described render section 90.140 substantively identical to and therefore no less effective than the corresponding language contained in the Federal Regulations at 30 CFR 816.150(f) and (f)(6).

*Section 90.147 Support Facilities and Utility Installations*

PADEP is modifying subsection (a) by eliminating criteria from the opening paragraph and deleting subdivisions (1) and (2). The deleted criteria have no Federal regulatory counterparts. The criteria to locate, maintain and use buildings is now included in new subdivisions (1), (2), (2)(i) and (2)(ii) as follows:

(1) Prevents or controls erosion and siltation, water pollution, and damage to public or private property.

(2) To the extent possible using the best technology currently available:

(i) Minimizes damage to fish, wildlife and related environmental values.

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. These contributions may not be in excess of limitations of State or Federal law.

The Director finds that the changes described above render section 90.147 substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.181(b).

*Section 90.150 Protection of Fish, Wildlife and Related Environmental Values*

PADEP is modifying this section to require a person conducting surface mining activities to, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife and related environmental values, locate and operate haul and access roads to avoid or minimize impacts to fish and wildlife or other protected species, and to avoid disturbance to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife. Prior to these proposed amendments, this section required that activities use the best technology currently available to prevent such disturbances and adverse impacts. The Director finds that the changes described above render section 90.150 substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.97(a) and (e)(2), and to the portion of 30 CFR 816.97(f) that pertains to habitats of unusually high value. PADEP is also modifying subsections (b) and (d) by changing the name of the Fish Commission to the Fish and Boat Commission. As modified, subsections (b) and (d) remain substantively identical to and therefore no less effective than the corresponding language contained in the Federal regulations at 30 CFR 816.97(b).

*Section 90.166 Postdisposal Land Use*

PADEP is modifying subsection (a) by changing the reference from ''Subchapter E (relating to coal exploration)'' to ''Subchapter F (relating to bonding and insurance requirements).'' The Director finds that this change does not render subsection (a) less effective than the corresponding Federal regulations at 30 CFR 816.133(a).

PADEP is modifying subsection (b) by eliminating subdivisions (3) and (4) pertaining to land that has received improper management or was changed within 5 years of the beginning of mining. These deleted subdivisions have no Federal counterparts.

PADEP is also adding new subdivision (c)(3) as follows: ''The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria * * *.'' Criteria currently identified in subdivisions (c)(3), (4), and (5) are re-lettered as (i), (ii) and (iii) respectively, under new subdivision (c)(3).

PADEP is also eliminating subdivision (c)(6) pertaining to certification of plans for postdisposal land use by a registered professional engineer. This deleted subdivision has no Federal counterpart. Existing subdivisions (c)(7), (8) and (9) are re-numbered as (c)(4), (5) and (6), respectively. The Director finds that the changes described above do not render section 90.166 less effective than the Federal Regulations at 30 CFR 816.133(b) and (c)(1).

## IV. Summary and Disposition of Comments

*Federal Agency Comments*

On December 3, 1999, we asked for comments from various Federal agencies who may have an interest in the Pennsylvania amendment. (Administrative Record Number 849.03). We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations. Two offices of the Mine Safety and Health Administration (MSHA) responded in letters dated December 22, 1999 and December 28, 1999 (Administrative Record Numbers 849.06 and 849.07, respectively). The only comment made noted that the minimum static safety factor of 1.3 is included in PA Chapters 87 and 88 for outslopes of a terrace greater than 1v:2h–50%, whereas the Federal Regulations at 30 CFR 77.215(h) specify that the minimum factor should be 1.5 for refuse piles. In response, the Director notes that neither of the Pennsylvania provisions cited by MSHA pertains to refuse piles. Rather, the provisions, at sections 87.144 and 88.118, contain general requirements for backfilling and grading of bituminous and anthracite surface coal mining operations, respectively. Use of the 1.3 minimum static safety factor for such operations is also provided for in the Federal regulations at 30 CFR 816.102(a)(3). Regardless, Pennsylvania is deleting both of these provisions in this amendment, as discussed above.

*Environmental Protection Agency (EPA)*

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this amendment contains no such provisions and that EPA concurrence is therefore unnecessary.

OSM did, however request comments from EPA, and EPA responded in its letter dated December 13, 1999 (Administrative Record Number 849.04). EPA commented that the amendment contained slight wording changes that appeared to lessen the emphasis on preventing water quality impacts. As examples, EPA noted that Section 88.335, Haul Roads and Access Roads, and Section 88.191, Hydrologic Balance:Sediment Control Measures, were revised to require that erosion be controlled or prevented (88.335) and minimized to the extent possible (88.191), rather than prevented to the maximum extent possible, as both sections previously required. EPA also noted, however, that its understanding is that the actual requirements for erosion and sedimentation control and preventing water quality impacts will not be reduced. As explained above in the Director's Findings, OSM approved both sections in accordance with section 529(a) of SMCRA and the Federal regulations at 30 CFR 820.11.

*Public Comments*

No comments were received in response to our request for public comments.

## V. Director's Decision

Based on the above findings, we are approving the amendments to the Pennsylvania regulatory program. The required amendment at 30 CFR 938.16(ll) is being removed. However, the Director is requiring that Pennsylvania amend its performance standards for coal refuse disposal to require that haul roads and access roads be designed, constructed and maintained to control or prevent erosion.

The Federal regulations at 30 CFR Part 938, codifying decisions concerning the Pennsylvania program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

## VI. Procedural Determinations

*Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

*Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulations.

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart federal regulations for which an economic analysis was

prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 12, 2000.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

## PART 938—PENNSYLVANIA

1. The authority citation for part 938 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 938.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

**§ 938.15 Approval of Pennsylvania regulatory program amendments.**

| Original amendment submission date | Date of final publication | Citation/description |
|---|---|---|
| * * * * * * * | | |
| November 30, 1999 | June 26, 2000 | 25 Pa. Code 86.2, 86.37, 86.40, 86.64, 86.70, 86.132–86.134, 86.174, 87.1, 87.77, 87.93, 87.97, 87.101, 87.106, 87.126, 87.127, 87.138, 87.144, 87.146, 87.159, 87.160, 87.166, 87.173, 87.174, 87.176, 87.209, 88.1, 88.56, 88.83, 88.91, 88.96, 88.118, 88.133, 88.138, 88.144, 88.191, 88.221, 88.231, 88.237, 88.283, 88.291, 88.296, 88.334, 88.335, 88.341, 88.492, 88.509, 89.38, 89.65, 89.67, 89.82, 89.87, 89.88, 89.90, 90.1, 90.40, 90.93, 90.97, 90.101, 90.106, 90.134, 90.140, 90.147, 90.150, 90.166. |

3. Section 938.16 is amended by removing and reserving paragraph (ll) and by adding paragraph (gggg) as follows:

**§ 938.16 Required regulatory program amendments.**

* * * * *

(ll) [Reserved]

* * * * *

(gggg) By August 25, 2000, Pennsylvania shall amend its performance standards for coal refuse disposal, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the state, to require that haul roads and access roads be designed, constructed and maintained to control or prevent erosion.

[FR Doc. 00–16087 Filed 6–23–00; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[CGD01–00–145]**

**RIN 2115–AA97**

## Safety Zone: Fireworks Display, Pier 54, Hudson River, New York

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for a fireworks display located on the Hudson River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

**DATES:** This rule is effective from 10 p.m. (e.s.t.), until 11:30 p.m. (e.s.t.) on June 26, 2000.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–00–145) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4012.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM for the event. Further, it is a local, community supported event with minimal impact on the waterway, vessels may still transit through the

western 165 yards of the 885-yard wide Hudson River during the display, and the zone is only in affect for 1½ hours and vessels can be given permission to transit the zone except for about 45 minutes during this time. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterways and protect the maritime public from the hazards associated with this fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This is due to the following reasons: it is an annual event with local community support, it is a local event with minimal impact on the waterway, the zone is only in affect for 1½ hours and vessels can be given permission to transit the zone except for about 45 minutes during this time, and marine traffic will be able to transit through the western 165 yards of the 885-yard wide Hudson River during the display. Finally, this rule creates a safety zone that will only be enforced if the annual event, scheduled for Sunday, June 25, 2000, is cancelled due to inclement weather.

**Background and Purpose**

The Coast Guard has received an application to hold a fireworks program on the waters of the Hudson River. This regulation establishes a safety zone in all waters of the Hudson River within a 360-yard radius of the fireworks barge in approximate position 40°44′31″ N 074°01′00″ W (NAD 1983), about 400 yards west of Pier 54, Manhattan. The safety zone is in effect from 10 p.m. (e.s.t.) until 11:30 p.m. (e.s.t.) on Monday, June 26, 2000. This is an annual event regulated by 33 CFR 100.114 for the last Sunday in June. This rule is for the rain date of June 26, 2000, which is not addressed in the current regulation. This safety zone will not be enforced on Monday, June 26, if the fireworks display is held on Sunday, June 25, 2000. The safety zone prevents vessels from transiting a portion of the Hudson River and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will be able to transit through the western 165 yards of the 885-yard wide Hudson River during the event. This safety zone precludes the waterway users from entering only the safety zone itself. Public notifications will be made prior to the event via the Local Notice to Mariners. Furthermore, marine traffic will not be precluded from mooring at, or getting underway from, any piers in the vicinity of this event.

**Regulatory Evaluation**

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit through the western 165 yards of the Hudson River during the fireworks display, and advance notifications which will be made. Additionally, this is an annual event with local community support.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 12″ mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

**Small Entities**

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

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 13132 and has determined that this final rule does not have implications for federalism under that Order.

**Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104–4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain *Federal mandates.* A Federal mandate is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

**Environment**

The Coast Guard considered the environmental impact of this final rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 165**

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

**Regulation**

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

## PART 165—[AMENDED]

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

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

2. Add temporary § 165.T01–145 to read as follows:

**§ 165.T01–145 Safety Zone: Fireworks Display, Pier 54, Hudson River, New York.**

(a) *Location.* The following area is a safety zone: All waters of the Hudson River within a 360-yard radius of the fireworks barge in approximate position 40°44′31″ N 074°01′00″ W (NAD 1983), about 400 yards west of Pier 54, Manhattan.

(b) *Effective period.* This section is effective from 10 p.m. (e.s.t.) until 11:30 p.m. (e.s.t.) on Monday, June 26, 2000.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 13, 2000.

**R.E. Bennis,**

*Captain, U. S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 00–16214 Filed 6–22–00; 2:34 pm]

BILLING CODE 4910–15–U

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 9, 157, 372, and 720

**[OPPTS–00265; FRL–6067–7]**

## OMB Approvals Under the Paperwork Reduction Act; Technical Amendment

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This document updates EPA's table of OMB control numbers. These OMB control numbers are issued by the Office of Management Budget (OMB) under the Paperwork Reduction Act (PRA) for regulations containing information collection requirements. This technical amendment adds new approvals published in the **Federal Register** since July 1, 1998, removes expired and terminated approvals, and makes other necessary corrections to the table.

**DATES:** This rule is effective June 26, 2000, except § § 372.27 and 372.95. The effective date for § § 372.27 and 372.95 is March 17, 1995.

**FOR FURTHER INFORMATION CONTACT:** *For general information contact:* Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

*For technical information contact:* Patricia Johnson, Regulatory Coordination Staff (7101), Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–2893; e-mail address: johnson.patriciaa@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general. This action may, however, be of interest to those persons who are concerned about OMB approval for information collection required by EPA regulations. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–00265. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall, Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

### II. Background

*A. Why is this Technical Amendment Being Issued?*

This document updates the OMB control numbers listed in 40 CFR part 9 for various actions published in the **Federal Register**, since July 1, 1998, and issued under the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*). EPA will continue to present OMB control numbers in a consolidated table format in 40 CFR part 9 of the Agency's regulations. The table lists Code of Federal Regulations (CFR) citations with reporting, recordkeeping, or other information collection requirements that require OMB approval under the PRA (44 U.S.C. 3501 *et seq.*), and the current OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the requirements of the PRA and OMB's implementing regulations at 5 CFR part 1320.

*B. Why is this Technical Amendment Issued as a Final Rule?*

Under PRA, the information collection requirements included in this document were previously subject to public notice and comment prior to OMB approval, either as part of the OMB approval process or as part of a rulemaking. Therefore, EPA finds that publication of a proposed rule is unnecessary and would waste public tax dollars. This technical amendment is effective upon publication under the ''good cause'' clause found in section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B) which allows a regulatory action to become final without prior notice and comment.

*C. What Corrections does this Document Make?*

1. The OMB approval numbers being added to the table in 40 CFR 9.1 are related to approved information collection activities contained in the following final rules:

Substituted Phenol; Significant New Use Rule; Final Rule (63 FR 23678, April 30, 1998) (FRL–5782–5). OMB most recently approved this ongoing collection under control number 2070–0012 on February 19, 1997 (EPA ICR No. 574.10) (see 62 FR 10057, March 5, 1997) (FRL–5699–4).

Lead; Requirements for Hazard Education Before Renovation of Target

Housing; Final Rule (63 FR 29907, June 1, 1998) (FRL–5751–7). Approved by OMB under control number 2070–0158 on September 1, 1998 (EPA ICR No. 1669.02) (see 63 FR 57677, October 28, 1998) (FRL–6180–8).

Significant New Uses of Certain Chemical Substances; Final Rule (63 FR 44562, August 20, 1998) (FRL–5788–7). OMB most recently approved this ongoing collection under control number 2070–0012 on February 19, 1997 (EPA ICR No. 574.10 (see 62 FR 10057, March 5, 1997) (FRL–5699–4).

Significant New Uses of Certain Chemical Substances; Final Rule (63 FR 65705, November 30, 1998) (FRL–6033–6). OMB most recently approved this ongoing collection under control number 2070–0012 on February 19, 1997 (EPA ICR No. 574.10 (see 62 FR 10057, March 5, 1997) (FRL–5699–4).

Significant New Uses of Certain Chemical Substances; Direct Final Rule (65 FR 345, January 5, 2000) (FRL–6055–2). OMB most recently approved this ongoing collection under control number 2070–0012 on February 19, 1997 (EPA ICR No. 574.10 (see 62 FR 10057, March 5, 1997) (FRL–5699–4).

2. Several entries on the table in 40 CFR 9.1 are being removed, either because the collection activity has been eliminated, the OMB approval has expired, or the entry is incorrect. The following actions are related to some of the listed removals:

Certain Chemical Substances; Removal of Significant New Use Rule; Final Rule (63 FR 48127, September 9, 1998) (FRL–6020–7).

Revocation of Significant New Use Rules for Certain Chemical Substances; Final Rule (63 FR 64874, November 24, 1998) (FRL–6044–6).

3. The requested deletion of the effective date notes and the parentheticals are necessary technical corrections. The Agency no longer uses a parenthetical to display the OMB approval status for regulations. These approvals are properly listed in 40 CFR 9.1. The effective note is no longer applicable, because OMB approved the information collection contained in the final rule that established § § 372.27 and 372.95 (59 FR 61502, November 30, 1994) on March 17, 1995 (EPA ICR No. 1704.02) (see 60 FR 24631, May 9, 1995) (FRL–5204–7), and OMB has approved the renewal of this ongoing collection twice since, with the current approval on February 2, 1999 (EPA ICR No. 1704.04) (See 64 FR 12316, March 12, 1999) (FRL–0239/7).

## III. Regulatory Assessment Requirements

This final rule implements a technical correction to the CFR, and does not impose any new requirements.

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), OMB has determined that a technical correction is not a ''significant regulatory action'' subject to review by OMB.

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action will not result in environmental justice related issues and does not therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute (see Unit II.B.), this action is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. Nor does this action significantly or uniquely affect the communities of tribal governments as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

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

This rule does not contain any information collection requirements that require review and approval by OMB pursuant to the PRA. The collection activities associated with the OMB control number contained in this technical correction have already been approved by OMB.

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order.

## IV. Submission to Congress and the Comptroller General

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. CRA section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 26, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Parts 9, 157, 372, and 720

Environmental protection, Reporting and recordkeeping requirements.

Dated: June 16, 2000.

**Susan H. Wayland,**

*Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

**Authority:** 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1, the table is amended as follows:

a. By removing the entry ''Part 372'' and by removing § § 721.658, 721.723, 721.1525, 721.1737, 721.1740, 721.3180, 721.5725, 721.7360, 721.8654, 761.93, 761.93(a)(1)(iii), 761.93(b), and Part 763, subpart I.

b. By removing ''2010–0019,'' in § § 704.5 and 704.11 and Part 792.

c. By adding the entries listed below under the headings indicated.

The table as amended reads as follows:

**§ 9.1 OMB approvals under the Paperwork Reduction Act.**

* * * * *

| 40 CFR citation | OMB control No. |
|---|---|
| * * * * * | |
| **Significant New Uses of Chemical Substances** | |
| * * * * * | |
| 721.305 | 2070–0012 |
| * * * * * | |
| 721.324 | 2070–0012 |
| 721.329 | 2070–0012 |
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| 721.435 | 2070–0012 |
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| 721.450 | 2070–0012 |
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| 721.526 | 2070–0012 |
| 721.528 | 2070–0012 |
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| 721.555 | 2070–0012 |
| 721.558 | 2070–0012 |
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| 721.567 | 2070–0012 |
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| 721.630 | 2070–0012 |
| 721.637 | 2070–0012 |
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| 721.644 | 2070–0012 |
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| 721.987 | 2070–0012 |
| 721.988 | 2070–0012 |
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| 721.1055 | 2070–0012 |
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| 721.1576 | 2070–0012 |
| 721.1577 | 2070–0012 |
| 721.1578 | 2070–0012 |
| 721.1579 | 2070–0012 |
| 721.1580 | 2070–0012 |
| * * * * * | |
| 721.1655 | 2070–0012 |
| * * * * * | |
| 721.1710 | 2070–0012 |
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| 721.1729 | 2070–0012 |
| 721.1730 | 2070–0012 |
| 721.1731 | 2070–0012 |
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| 721.1734 | 2070–0012 |
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| 721.2077 | 2070–0012 |
| 721.2078 | 2070–0012 |
| 721.2079 | 2070–0012 |
| 721.2081 | 2070–0012 |
| 721.2082 | 2070–0012 |
| 721.2083 | 2070–0012 |
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| 721.2087 | 2070–0012 |
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| 721.2385 | 2070–0012 |
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| 721.2480 | 2070–0012 |
| 721.2485 | 2070–0012 |
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| 721.2532 | 2070–0012 |
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| 721.2570 | 2070–0012 |
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| 721.2580 | 2070–0012 |
| 721.2585 | 2070–0012 |
| * * * * * | |
| 721.2755 | 2070–0012 |
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| 721.3025 | 2070–0012 |
| 721.3031 | 2070–0012 |
| 721.3032 | 2070–0012 |
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| 721.3310 | 2070–0012 |
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| 721.3635 | 2070–0012 |
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| 721.3845 | 2070–0012 |
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| 721.4097 | 2070–0012 |
| 721.4098 | 2070–0012 |
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| 721.4105 | 2070–0012 |
| 721.4106 | 2070–0012 |
| 721.4107 | 2070–0012 |
| 721.4108 | 2070–0012 |
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| 721.4265 | 2070–0012 |
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| 721.4385 | 2070–0012 |
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| 721.4472 | 2070–0012 |
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| 721.5185 | 2070–0012 |
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| 721.5290 | 2070–0012 |
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| 721.5356 | 2070–0012 |
| 721.5360 | 2070–0012 |
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| 721.5380 | 2070–0012 |
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| 721.5548 | 2070–0012 |
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| 721.5580 | 2070–0012 |
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| 721.5775 | 2070–0012 |
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| 721.5867 | 2070–0012 |
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| 721.5965 | 2070–0012 |
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| 721.6175 | 2070–0012 |
| 721.6176 | 2070–0012 |
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| 721.6197 | 2070–0012 |
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| 721.6498 | 2070–0012 |

| 40 CFR citation | OMB control No. |
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| * * * * * | |
| 721.7285 | 2070–0012 |
| 721.7286 | 2070–0038 |
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| 721.7785 | 2070–0012 |
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| 721.8153 | 2070–0012 |
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| 721.8660 | 2070–0012 |
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| 721.9490 | 2070–0012 |
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| 721.9508 | 2070–0012 |
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| 721.9513 | 2070–0012 |
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| 721.9516 | 2070–0012 |
| 721.9517 | 2070–0012 |
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| 721.9573 | 2070–0012 |
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| 721.9595 | 2070–0012 |
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| 721.9661 | 2070–0012 |
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| 721.9663 | 2070–0012 |
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| 721.9672 | 2070–0012 |
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| 721.9719 | 2070–0012 |
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| 721.9790 | 2070–0012 |
| 721.9795 | 2070–0012 |
| 721.9798 | 2070–0012 |
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| 721.9810 | 2070–0012 |
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| 721.9965 | 2070–0012 |
| 721.9969 | 2070–0012 |
| * * * * * | |
| 721.9973 | 2070–0012 |
| * * * * * | |
| **Lead-Based Paint Poisoning Prevention in Certain Residential Structures** | |
| Part 745, subpart E | 2070–0158 |
| * * * * * | |

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## PART 157—[AMENDED]

1. The authority citation for part 157 continues to read as follows:

**Authority:** 7 U.S.C. 136w.

2. Remove at the end of § 157.36 the parenthetical phrase containing the OMB control number.

## PART 372—[AMENDED]

1. The authority citation for part 372 continues to read as follows:

**Authority:** 42 U.S.C. 11023 and 11048.

2. The effective date for § § 372.27 and 372.95 is March 17, 1995.

## PART 720—[AMENDED]

1. The authority citation for part 720 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2613.

2. Remove at the end of § 720.102 the parenthetical phrase containing the OMB control number.

[FR Doc. 00–16076 Filed 6–23–00; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[OPP–300987; FRL–6499–5]**

**RIN 2070–AB78**

### Prallethrin [(RS)-2-methyl-4-oxo-3-(2-propynyl) cyclopent-2-enyl (1RS)-cis, trans-chrysanthemate]; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of 1.0 ppm of prallethrin (*RS*)-2-methyl-4-oxo-3- (2-propynyl)cyclopent-2-enyl (1*RS*)-*cis*, *trans*-chrysanthemate in or on all food items in food handling establishments where food and food products are held, processed, prepared, and/or served. McLaughlin Gormley King Company requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

**DATES:** This regulation is effective June 26, 2000. Objections and requests for hearings, identified by docket control number OPP–300987, must be received by EPA on or before August 25, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300987 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Kevin Sweeney, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–5063; and e-mail address: sweeney.kevin@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of potentially affected entities |
|---|---|---|
| Industry | 111 | Crop production |
| | 112 | Animal production |
| | 311 | Food manufacturing |
| | 32532 | Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental

Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–300987. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

## II. Background and Statutory Findings

In the **Federal Register** of October 21, 1993 (58 FR 54353) (FRL–4645–7), EPA issued a notice that McLaughlin Gormley King Co. (MGK), 8810 Tenth Avenue North, Minneapolis, MN 55427, had submitted food additive petition 3H5651 to EPA proposing to amend 40 CFR part 186 by establishing a regulation, pursuant to section 409 of the Federal, Food, Drug, and Cosmetic Act (FFDCA) 21 U.S.C, 348(e), for residues of prallethrin in or on food as a result of use in food handling establishments at 1.0 part per million (ppm). On September 5, 1997, MGK at the request of EPA, submitted an amendment to bring the notice into conformity with the Food Quality Protection Act of 1996 (FQPA).

In the **Federal Register** of September 25, 1997 (62 FR 50337) (FRL–5748–2), EPA issued a notice pursuant to section 408 of FFDCA 21 U.S.C. 346a as amended by FQPA (Public Law 104–170) announcing the filing of a pesticide petition (PP 7F4915) for tolerance by McLaughlin Gormley King Company, 8810 Tenth Avenue North, Minneapolis, MN 55427. This notice included a summary of the petition prepared by McLaughlin Gormley King, the registrant. There were no comments received in response to the notice of filing.

The petition requested that a new regulation be established under 40 CFR part 180 for tolerances of prallethrin [(*RS*)-2-methyl-4-oxo-3-(2-propynyl)cyclopent-2-enyl (1*RS*)-*cis*, *trans*-chrysanthemate at 1.0 ppm, in or on all food items in food handling establishments where food and food products are held, processed, prepared, and/or served.

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

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

## III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of prallethrin in or on all food items in food handling establishments where food and food products are held, processed, prepared, and/or served at 1.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by prallethrin are discussed in this unit.

1. A battery of acute toxicity studies places prallethrin in Toxicity Category II for acute oral ($LD_{50}$ > 50 milligrams/kilograms (mg/kg)) and acute inhalation ($LD_{50}$ > 0.05 mg/L); Category III for primary eye irritation, Category IV for acute dermal ($LD_{50}$ > 5,000 mg/kg) and primary dermal irritation. Prallethrin is a non-sensitizer. The NOAEL for acute delayed neurotoxicity is 100 mg/kg bodyweight.

2. *Subchronic oral toxicity feeding—Rat.* In a subchronic oral toxicity study, prallethrin technical (92.0% purity) was administered by dietary admix to Crj: CD (Sprague-Dawley rats (15/sex/group) at doses of 0, 100, 300, 1,000 or 3,000 ppm (0, 7.93, 24.0, 79.1 or 230 mg/kg/day for males; 0, 8.96, 26.1, 82.3 or 244 mg/kg/day for females) for 90 days. The no observable adverse effect level (NOAEL) is 79.1 mg/kg/day and the lowest observable adverse effect level (LOAEL) is 230 mg/kg/day based on transient alopecia, decreased body weights, increased neutrophil count, decreases in hemoglobin and hematocrit, changes in clinical chemistry parameters, increased kidney weights, minimal perilobular hepatocellular hypertrophy and increased number of small follicles in the thyroid.

3. *Subchronic oral toxicity feeding—Mouse.* In a subchronic oral toxicity range-finding study, prallethrin technical (93.6% purity) was administered by dietary admix to Crl: CD–1 (ICR)BR mice (10/sex/dose group) at dietary levels of 0, 300, 3,000, 6,000 or 12,000 ppm (corresponding to an average intake of 0, 39, 374, 808 or 1,839 milligrams/kilograms/day (mg/kg/day) in males and 0, 47, 444, 890 or 1,884 mg/kg/day in females, respectively) for 13 weeks. The NOAEL is 374 mg/kg/day and the LOAEL is 808 mg/kg/day based on increases in liver weights, enlargement of hepatocytes and increases in cholesterol and creatinine levels in the serum.

4. *Subchronic oral toxicity feeding—Dog.* In a subchronic oral toxicity study, prallethrin technical (94.6% purity) was administered orally by capsule to Beagle dogs (4/sex/group) at doses of 0, 3, 10 or 30 mg/kg/day for 90 days. The NOAEL is 3 mg/kg/day and the LOAEL is 10 mg/kg/day based on tremors, decreased serum A/G ratio, increased serum cholesterol and phospholipids and enlarged livers. Mortality was observed at 30 mg/kg/day with additional clinical signs of convulsions,

ataxia, salivation, tachypnea, tachycardia and increased body temperature. In the animals that died, congestion and hemorrhage were observed in multiple organs with myocardial fiber degeneration. Granulocyte juvenile cells in the bone marrow were observed in one surviving dog.

5. *Repeated dose dermal— Rat.* In a repeat dose dermal toxicity study, prallethrin technical (93.2 % purity) was administered via the dermal route to Crl:CD (SD)BR Sprague-Dawley rats (5/sex/group) at doses of 0 (corn oil), 30, 150 or 750 mg/kg/day on 10% of the body surface, 6 hours/day for 21 consecutive days. Occlusive dressings were used and Elizabethan collars were worn during the exposure periods. The NOAEL is 30 mg/kg/day and the LOAEL is 150 mg/kg/day based on clinical signs of toxicity and decreases in body weight gain.

6. *A 28-Day inhalation—Rat.* In a 28-day inhalation toxicity study, prallethrin technical (92.0% purity) was administered via inhalation to Sprague-Dawley rats (10/sex/group) at concentrations of 0, 1.01, 4.39 or 19.6 $mg/m^3$, 4 hours/day in deodorized kerosene solvent for 28 days. Mean concentrations of the test article and distribution of the diameters of the mist particles were measured as well as clinical signs of toxicity, body weights, food consumption, opthalmological measurements, and hematological and blood chemistry measurements. The NOAEL is 1.01 $mg/m^3$ (0.0010 mg/L/day) and the LOAEL is 4.39 $mg/m^3$ (0.0044 mg/L/day) based on increased evidence and severity of irregular respiration, decreased spontaneous activity and nasal discharge during exposure. This is a borderline LOAEL. Study deficiencies include measuring particle sizes on only 1 day (day 21) and not measuring particle sizes in the lowest concentration.

7. *Chronic toxicity—combined chronic feeding/carcinogenicity—Rat.* In a chronic feeding/carcinogenicity study, prallethrin technical (92.0% purity) was administered by dietary admix to F344/DuCrj rats (50/sex/group with satellite groups of 40/sex/group) at doses of 0, 80, 400 or 2,000 ppm (0, 3.3, 16.3 or 83.5 mg/kg/day for males; 0, 4.0, 19.1 or 103.4 mg/kg/day for females) for 2 years. The additional satellite groups (10/sex/group) were sacrificed at 26, 52 and 78 weeks. Females appear to be slightly more susceptible to toxicity in the study. The NOAEL is 19.1 mg/kg/day and the LOAEL is 104.3 mg/kg/day based on decreases in body weight gains and histocytic infiltration of the liver in females. There was no evidence of an carcinogenic response. Based on the results of the study, higher dose levels could have been tolerated. In the 5-week range-finding study, tremors and death were observed at 10,000 ppm (1,121 mg/kg/day for males, 1,349 mg/kg/day for females). At 2,500 ppm (210 mg/kg/day for males, 253 mg/kg/day for females), there were significant decreases in body weights and hemoglobin, however these were not below 93% of the control groups. There were effects on clinical chemistry at this dose level and an increase in relative liver weights; however, these were not considered to be toxicologically significant because there was no associated histopathology and some of the effects may not be clinically meaningful and/or may be due to dehydration or fasting (decreases in GOT and ALP, increased albumin). Increased relative liver weights are not generally considered to be toxicologically significant without increases in absolute liver weights and without any liver pathology.

8. *Chronic oral toxicity (capsule)—Dog.* In a chronic oral toxicity study, prallethrin technical (93.6% purity) was administered orally by gelatin capsule to Beagle dogs (4/sex/group) at doses of 0, 2.5, 5, 10 or 20 mg/kg/day for 52 weeks. The NOAEL is 2.5 mg/kg/day and the LOAEL is 5 mg/kg/day in females based on the death of 1 female with typical clinical signs of pyrethroid toxicity and subendocardial red discoloration in the left ventricle of the heart. At 10 mg/kg/day, trembling, rapid eye blinking, hunched posture, panting, increased serum cholesterol, phospholipids and alkaline phosphatase activity were observed.

9. *Developmental toxicity prenatal developmental study—Rat.* In an oral developmental toxicity study, prallethrin technical (93.2% purity), was administered by gavage to Crl: CD BR VAF/Plus Sprague-Dawley rats (25/group) at doses of 0 (0.5% aqueous methylcellulose vehicle), 10, 30, 100 or 300 mg/kg/day on gestation days (GDs) 6–15, inclusively. The maternal NOAEL = 10 mg/kg/day; the maternal LOAEL = 30 mg/kg/day (tremors, excessive salivation and chromorrhinorrhea). The developmental NOAEL = 300 mg/kg/day (HDT).

10. *Prenatal developmental study—Rabbit.* In an oral developmental oral toxicity study, prallethrin technical (93.2% purity) was administered by gavage to New Zealand White rabbits (20/group) at doses of 0 (0.5% aqueous methylcellulose vehicle), 10, 30, 100 or 200 mg/kg/day on gestation days (GDs) 7–19, inclusively. Dose levels were selected based on a range-finding study conducted with 6 artificially inseminated rabbits/group at dose levels of 0, 10, 30, 60, 100, 300, 600 or 800 mg/kg/day on gestation days 7–19, inclusively. No maternal effects were observed at 60 mg/kg/day in the range-finding study. Based on these effects, the choice of 200 mg/kg/day as the high dose for the main study is considered appropriate based on tremors. In the main study, no developmental toxicity was observed at any dose level. The maternal NOAEL = 30 mg/kg/day (the number of animals in the range-finding study were too few to use 60 mg/kg/day as the NOAEL). The maternal LOAEL = 100 mg/kg/day from the range-finding study (tremors). The developmental NOAEL = 200 mg/kg/day (HDT in main study).

11. In a subcutaneous developmental toxicity study, prallethrin technical (92.0% purity) was administered by subcutaneous injection to New Zealand White rabbits (18/group) at doses of 0 (corn oil vehicle), 1, 3 or 10 mg/kg/day on gestation days (GDs) 6–18, inclusively. No toxicological effects on either dams or fetuses were observed at any dose level. However, in the range-finding study with nonpregnant animals, tremors were observed at 10 mg/kg/day and mortality, clinical signs, and weight loss were observed at 30 mg/kg/day. In the subcutaneous range-finding developmental rat study, maternal toxicity with nonpregnant animals was similar to that with pregnant animals. Therefore, by analogy, the choice of 10 mg/kg/day for the main rabbit study is considered to be appropriate, even though toxicity was not observed. The maternal NOAEL = 10 mg/kg/day (HDT); the maternal LOAEL = 30 mg/kg/day from the range-finding study (mortality, clinical signs, weight loss). The developmental NOAEL = 10 mg/kg/day (HDT).

12. *Two-generation reproduction study—Rat.* In a 2-generation reproduction study, prallethrin technical (93.6 and 92.9% purity) was administered to 30 Crl:COBS CD(SD)BR rats by dietary admix at concentrations of 0, 120, 600, 3,000 or 6,000 ppm (during premating, for males approximately 0, 6, 31, 156 or 329 mg/kg/day and for females approximately 0, 7, 37, 185 or 375 mg/kg/day). Treatment was continuous throughout the study. The two parental generations, $F_0$ and $F_1$, produced one litter of pups each ($F_1$ litters, $F_2$ litters respectively). The parental animals received the test diet for 91 days before mating and throughout mating, pregnancy, and lactation of their litters. Pups were selected from $F_1$ litters to parent the $F_2$ generation. The $F_0$ generation produced 23 to 26 litters/group consisting of

liveborn pups, the $F_1$ generation produced 18 to 25 liveborn litters/group. There was one mortality at 3,000 ppm that was preceded by clinical signs [1] and weight loss. At 6,000 ppm, treatment-related mortalities in the $F_1$ generation and increased basophilia in the cortical tubules (males) were observed. The parental systemic NOAEL is 31 mg/kg/day (males) and 37 mg/kg/day (females); the parental systemic LOAEL is 156 mg/kg/day (males) and 185 mg/kg/day (females) based on decreased body weights and body weight gains, increased liver weights and microscopic findings in the liver, kidney, thyroid and pituitary. No pup toxicity was observed at dose levels of 120 and 600 ppm. At 3,000 ppm and above, decreased pup body weight was observed during the lactation period in both generations. The offspring systemic NOAEL is 31 mg/kg/day (males) and 37 mg/kg/day (females); the offspring systemic LOAEL is 156 mg/kg/day (males) and 185 mg/kg/day (females) based on decreased pup body weights during the lactation period. No reproductive effects were observed at any dose level. The reproductive NOAEL is 329 mg/kg/day (males) and 375 mg/kg/day (females) (HDT).

13. *Subchronic neurotoxicity.* In a subchronic oral mammalian neurotoxicity study, groups of Crl: CD(SD)BR rats (12 rats/sex/group) were administered prallethrin technical (93% a.i.) via dietary admix at concentrations of 0, 120, 1,200 or 6,000 ppm for 13 weeks. These concentrations correspond to group mean intakes of 0, 9.3, 74 or 363 mg/kg/day (males) and 0, 11.1, 88 and 420 mg/kg/day (females). The systemic NOAEL is 1,200 ppm (74 mg/kg/day (males), 88 mg/kg/day (females)) and the systemic LOAEL is 6,000 ppm (363 mg/kg/day (males), 420 mg/kg/day (females)) based on decreases in mean body weight and food consumption when compared to the control values. There are no indications of neuropathology; however, there were indications of a higher arousal rate in females at 6,000 ppm.

14. Developmental neurotoxicity study. This study is not required for this chemical at this time. It may be required in the future.

15. *There is no mutagenicity concern.* In a reverse gene mutation study in *S. typhiumurium* (strains TA 100, 98, 1535, 1537, 1538) and *E. coli* WP2 uvrA, prallethrin technical (91.3% purity) was tested. The solvent was DMSO. Dose levels were up to 5,000 µg/plate with and without metabolic activation (S9 mix). Prallethrin did not induce any increases in reverse mutations in any of the bacterial strains tested. The positive controls (*N*-ethyl-*N*′-nitro-*N*-nitroso-guanidine, 2-nitrofluorene, methyl methanesulfonate, sodium azide, ICR–191, benzo(a)pyrene and 2-aminoanthracene) responded appropriately with highly significant increases in reverse mutations.

16. In a forward mutation study in V79 Chinese Hamster Lung Cells with DMSO as the solvent, prallethrin technical (91.2% purity) was tested. Concentrations of the test material were up to cytotoxic levels ($5 \times 10^{-5}$ M concentration without metabolic activation (S9), $3 \times 10^{-4}$ M concentration with metabolic activation). Prallethrin did not induce a significant increase in forward mutations at the hypoxanthine-guanine phosphoribosyl transferase (HGPRT) locus in Chinese hamster lung (V79) cells. The positive controls (*N*-ethyl-*N*′-nitro-*N*-nitroso-guanidine and 9, 10-dimethyl-1, 2-benzanthracene) responded appropriately with marked increases in mutant colonies.

17. *Cytogenetics.* In an *in vivo* micronucleus test in CD–1 mice, prallethrin technical (93.2% purity) was tested. Corn oil was used as the solvent. Five mice/sex/dose/sacrifice time were administered single doses of corn oil vehicle (10 ml/kg) or test article (48, 95, 190 mg/kg) and sacrificed 24, 48 or 72 hours later. Cyclophosphamide was used in the positive controls and they were sacrificed 24 hours later. Prallethrin had no effect on micronucleus formation in bone marrow cells up to a lethal dose. There was no bone marrow cytotoxicity.

18. In an *in vitro* chromosomal aberration study in Chinese Hamster Ovary (CHO K1) cells with DMSO as the solvent, prallethrin technical (91.2% purity), was tested. Concentrations of the test material were up to cytotoxic levels ($8 \times 10^{-5}$ M without metabolic activation and $3 \times 10^{-4}$ M with metabolic activation). Prallethrin tested negatively at all doses without metabolic activation and tested positively at all doses with metabolic activation. It was not clearly dose-related but clastogenicity was seen at nontoxic and slightly toxic doses. The positive controls (mitomycin C and benzo[a]pyrene) clearly tested positively in this test.

19. In an unscheduled DNA synthesis study in rat hepatocytes with corn oil as the solvent, prallethrin technical (91.2% purity) was tested. Male Sprague-Dawley SPF rats were administered a single dose of 400 mg/kg of the test material (maximum tolerated dose) by gavage. Hepatocytes were cultured from the animals 3, 12 and 24 hours later. Prallethrin tested negatively for inducing unscheduled DNA synthesis in rat hepatocytes. The positive control, 2-acetylaminofluorene induced a statistically significant increase in unscheduled DNA synthesis in rat hepatocytes.

20. *Metabolism—Rat.* The metabolism of the *cis*- and *trans*-isomers of S–4068SF was studied in male and female rats administered a single oral gavage dose of 2.0 or 100 mg/kg $^{14}$C-*cis*- or $^{14}$C-*trans*-isomer of S-4068SF, or a 14-day repeated oral dose of 2.0 mg/kg/day unlabeled *cis*- or *trans*-isomer of S-4068SF. The *cis*- and *trans*-isomers of $^{14}$C-S-4968SF were rapidly absorbed, distributed, metabolized, and excreted in rats under all dosing regimens. Most of the radioactivity was recovered in the urine and feces within 48 hours for both males and females for both isomers. A much greater proportion of the administered dose of the *trans*-isomer was eliminated in the urine (45.2–58.1% administered dose (AD) for males, 52.1–62.1% AD for females) than was the *cis*-isomer (13.3–15.8% AD for males, 21–23.3% AD for females). This occurred as a result of easier cleavage of the ester linkage of the *trans*-isomer by esterase. For the rats administered the *cis*-isomer, urinary excretion was a minor route compared to fecal excretion. Females excreted a greater proportion of the radioactivity in the urine than did males for both isomers. Absorption and metabolism were not saturated at the high dose since equivalent amounts of the parent compound (about 10%) were found in urine. Repeated dosing appeared to induce metabolism since only about 2% of the parent compound was found in the feces. Radioactivity accounted for less than 1% of the dose in the tissues for both isomers. The low tissue levels of radioactivity demonstrate that bioaccumulation and retention of the *cis*- and *trans*-isomers is low. No sex-related differences in the tissue distribution patterns were found, but proportionately higher residues were found in all tissues of the high-dose group. For both isomers, higher residue levels compared to other tissues were found in the kidneys (0.018–1.127 µg/g) and liver (0.013–1.14 µg/g); higher residue levels were also found in blood

[1] Clinical signs for this female were chromorrhinorrhea, bradypnea, labored breathing, rales, pale eyes, decreased motor activity, urine-stained fur, ungroomed coat, chromodacryorrhea and/or emaciated appearance. Although some of these signs are typical of those which may be associated with exposure to this chemical, the study authors believed that this death was not treatment-related.

(0.014–1.87 μg/g) for the *trans*-isomer, only. The major metabolic pathway was ester cleavage, particularly for the *trans*-isomer, which resulted in the metabolites (*S*)-4-hydroxy-3-methyl-2-(2-propynyl)cyclopent-2-en-1-one and its glucuronide conjugate or oxidation of the propynyl group to (*RS*)-4-hydroxy-2-(1-hydroxy-2-propynyl)-3-methylcyclopent-2-en-1-one and (*RS*)-4-hydroxy-2-(1-hydroxy-2-oxopropyl)-3-methylcyclopent-2-en-1-one.

The metabolism of *cis*- and *trans*-S-4068 was studied in groups of male and female Sprague-Dawley rats administered a single oral dose of 2.0 mg/kg $^{14}$C-*cis*- or *trans*-S-4068 or a single subcutaneous dose of 2.0 mg/kg $^{14}$C-*cis*- or $^{14C}$-*trans*-S-4068. Following oral and subcutaneous administration to rats of 2.0 mg/kg of the *cis*- and *trans*-isomers of S-4068 $^{14}$C-labeled at the cyclopentenyl-2 position, each isomer was readily absorbed, distributed, metabolized and excreted in the urine and feces. Total recovery was complete ranging from 96.7% to 103.9% of the administered dose (AD) for both isomers and both dose groups. There were generally no differences in absorption, distribution, metabolism, or excretion in rats dosed orally or subcutaneously. Seven days after administration of the *cis*-isomer by both routes, the mean percent recovery of radioactivity showed that the feces was the major route of excretion (70.3–83.4% AD) and the urine was a relatively minor route of excretion (16.8–27.9% AD). For rats administered 2.0 mg/kg of the *trans*-isomer by both routes, the urine was the major route of excretion (60.1–78.4% AD), and the feces was a minor route (23–41.7% AD) 7 days postdosing. The difference in the excretion pattern between the *trans*- and *cis*-isomers is due to the extent of ester cleavage; the *trans*-isomer is more readily cleaved so that it is excreted in the urine to a greater extent than the *cis*-isomer. Sex-related differences were seen in urinary excretion with females excreting greater amounts of radioactivity in the urine than males for both isomers and both administration routes. Expired air was not considered an important route of excretion since less than 0.1% of the administered dose was excreted as $^{14}CO_2$ in orally dosed males. Radioactivity levels in tissues was low indicating that the isomers do not persist in the tissue. The $^{14}$C levels in the major tissues reached a maximum within 3 hours and then decreased rapidly. Based on the metabolites identified, the major biotransformation reactions of the *cis*- and *trans*-isomers as indicated by the study author include: (1) Oxidation at the methyls of the isobutenyl group in the acid moiety and at the C–1 or C–2 positions of the propynyl group in the alcohol moiety; (2) cleavage of the ester linkage; (3) conjugation of hydroxy derivatives with glucuronic acid and sulfuric acid.

21. *Dermal absorption—Rat.* A dermal absorption study was not required.

*B. Toxicological Endpoints*

1. *Acute toxicity*. The acute reference dose (RfD) is established at 0.05 mg/kg/day (NOAEL = 5; Uncertainty Factor = 100) for use in assessing acute dietary risk for the general population, including infants and children. This RfD is based on trembling observed during week 1 at the dose of 10 mg/kg/day in the chronic oral study in the dog. The FQPA safety factor for the protection of infants and children was reduced to 1X. Therefore, the acute population adjusted dose (aPAD) is equal to acute RfD divided by 1 or 0.05 mg/kg/day.

2. *Short- and intermediate-term dermal toxicity*. The short- and intermediate-term dermal endpoints were selected from the 21-day dermal study in the rat (NOAEL = 30 mg/kg/day). This endpoint is based on clinical signs (trembling, fixation, abnormal gait, sensitivity to external stimuli, vocalization, twitching and writhing spasms) and decreased body weight gain observed at 150 mg/kg/day.

3. *Long-term dermal toxicity*. The long-term dermal endpoint was selected from the 1 year oral study in dogs (NOAEL 2.5 mg/kg/day, same study as for chronic dietary exposure). The dermal absorption rate of 20% and a margin of exposure (MOE) of 100 was selected.

4. *Inhalation toxicity*. The inhalation endpoints (any exposure period; in this case, short- and intermediate-term exposure) were selected from the 28-day inhalation study in the rat NOAEL = 0.0010 mg/L/day (estimated to be 0.174 mg/kg/day). This endpoint is based on clinical signs observed during exposure (increased evidence and severity of irregular respiration, decreased spontaneous activity and nasal discharge) observed at 0.0044 mg/L/day.

5. *Chronic dietary toxicity*. EPA has established the RfD for prallethrin at 0.025 mg/kg/day. This RfD is based on a NOAEL of 2.5 mg/kg/day and an uncertainty factor of 100. The NOAEL is based on microscopic lesions of the heart and clinical signs indicative of pyrethroid toxicity observed in one female dog at the LOAEL dose of 5 mg/kg/day. The FQPA safety factor for the protection of infants and children was reduced to 1X. Since the FQPA safety factor was reduced to 1X, the chronic Population Adjusted Dose (cPAD) is equal to the chronic RfD divided by 1 or 0.025 mg/kg/day.

4. *Carcinogenicity*. There is no evidence of carcinogenicity in either rats or mice.

*C. Exposures and Risks*

1. *From food and feed uses*. Currently, there are no agricultural uses nor established tolerances for prallethrin. The requested tolerance for 1.0 ppm for the residues of prallethrin, in or on all food items in food handling establishments where food and food products are held, processed, prepared, and/or served, will be the first food tolerance. Risk assessments were conducted by EPA to assess dietary exposures from prallethrin as follows:

i. *Acute exposure and risk*. The Agency has conducted a Tier 2 (anticipated residues and 100% crop treated) acute dietary (food only) exposure assessment for prallethrin using the Dietary Exposure Evaluation Model (DEEM). This model incorporates individual food consumption as reported by respondents in the USDA 1989–91 Continuing Survey of Food Intake by Individuals (CSFII) and accumulates exposure to the chemical for each commodity. The DEEM acute exposure analysis was performed using anticipated residues levels and 100% percent crop treated (PCT) to estimate the Anticipated Residue Concentration (ARC) for the general population and subgroups of interest. The DEEM acute dietary analysis indicates that exposure to prallethrin from dietary (food only) sources will be below the Agency's level of concern for all population subgroups (100% of the acute Population Adjusted Dose (aPAD)). The estimated exposure will occupy 89% of the aPAD for children 1–6 years (the most highly exposed population subgroup). Acute dietary risk to all other population subgroups is less than that of children 1–6 years. The Agency further notes that these acute dietary risks are significant overestimates as it was assumed that all foods would be treated, while it is believed that the maximum percentage of food handling establishments which will be treated is 12%. In addition, it was assumed that all treated foods would have the maximum residue observed in the submitted residue studies, when, in reality, a distribution of residues with many values lower than that would be encountered in actual practice.

ii. *Chronic exposure and risk*. The Agency has conducted a Tier 3 (anticipated residues and PCT data) chronic dietary (food only) exposure assessment for prallethrin using the

DEEM. This model incorporates individual food consumption as reported by respondents in the USDA 1989–91 CSFII and accumulates exposure to the chemical for each commodity. The DEEM chronic exposure analysis was performed using anticipated residues levels and 12% PCT to estimate the ARC for the general population and subgroups of interest. The DEEM chronic dietary analysis indicates that exposure to prallethrin from dietary (food only) sources will be below the Agency's level of concern for all population subgroups (100% of the cPAD). The estimated exposure will occupy 8.6% of the cPAD for children 1–6 years (the most highly exposed population subgroup). Chronic dietary risk to all other population subgroups is less than that of children 1–6 years (Table 1).

TABLE 1.—SUMMARY OF CHRONIC DIETARY EXPOSURE (FOOD ONLY) AND RISK FOR PRALLETHRIN

| Population Subgroup [1] | Chronic Dietary | |
|---|---|---|
| | Exposure (mg/kg/day) | cPAD [2] |
| U.S. Population | 0.000879 | 3.5 |
| Non-Nursing Infants | 0.002046 | 8.2 |
| Children (1–6 years old) | 0.002152 | 8.6 |
| Females 13+ (nursing) | 0.001009 | 4.0 |
| Males (13–19 yrs) | 0.000837 | 3.3 |

[1] Population subgroups shown include the U.S. General Population and the maximally exposed subpopulation of adults, infants and children, and women of child-bearing age.

[2] cPAD is equal to RfD ÷ FQPA Safety Factor (RfD ÷ 1 in this case): % RfD (cPAD) = Exposure (mg/kg) ÷ RfD (mg/kg) × 100.

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows. The DEEM chronic exposure analysis was performed using anticipated residues levels and 12% PCT to estimate the ARC for the general population and subgroups of interest. This PCT value used to perform this analysis was based on estimates received from the registrant, and the fact that anticipated sales and market share for a first time food use is not expected to reach its maximum until 5 to 7 years after market entry.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA used a maximum projected PCT for chronic dietary exposure estimates. The maximum projected PCT reasonably represents an overestimate of a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the maximum projected PCT over a lifetime. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimated. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which prallethrin may be applied in a particular area.

2. *From drinking water.* Based on the use patterns, negligible amounts of prallethrin are expected in the drinking water. Any that may be poured down the drain from residential uses will be removed by water treatment plants. Therefore, it is not necessary to calculate Drinking Water Levels of Comparison (DWLOCs).

i. *Acute exposure and risk.* Not applicable based on above comments.

ii. *Chronic exposure and risk.* Not applicable based on above comments.

3. *From non-dietary exposure.* Prallethrin is currently registered for use on the following residential non-food sites: inside households, outdoor yards and patios, and pets. Four different types of products are registered for residential use: (1) Crack and crevice sprays; (2) indoor and outdoor foggers; (3) broadcast carpet and surface sprays; and (4) pet dips, sprays and shampoos. There are 23 products containing the active ingredient prallethrin that are registered for residential use. The percent active ingredient in these products ranges from 0.03% to 0.25%. The frequency and rate of application varies with each product. Registered end use products with the highest percentage of active ingredient were used to estimate high-end exposure for

residential handlers and postapplication activities. These residential uses constitute short- and intermediate-term exposures including postapplication.

i. *Chronic exposure and risk*. Based on the use patterns, long-term (several months to lifetime) exposures are not expected for residential handlers.

ii. Short- and intermediate-term exposure and risk (residential). The residential exposure assessment relies on the methodology used previously by the Agency in November 1997, for the tolerance reassessment of 10 other pyrethroids. Current uses may result in short-term exposures for residential handlers. Intermediate- and long-term exposures are not expected for residential handlers. Since no handler data were submitted to support the residential handler assessment, surrogate data were used. MOE values were estimated for short-term handler dermal and inhalation exposures for indoor crack and crevice products, carpet/surface products and pet products. The dermal MOEs for these products range from 350 for the pet mousse to 5,600 for the pet dip. The inhalation MOEs range from 450 for the use of the undiluted prallethrin formulation as a carpet broadcast and space spray to 52,000 for the pet spray. The short-term MOEs for residential handlers are above the Agency's target MOE of 100.

Based on the use patterns intermediate-term (7 days to several months) exposures are not expected for residential handlers. Short- and intermediate-term durations may occur for postapplication exposures. For postapplication exposure, no actual dissipation data were available. Surrogate data were used. It is expected that residue levels after 7 days exposure will be low to nondetectable. MOE values were estimated for short- and intermediate-term postapplication dermal exposures for carpet broadcast sprays, total release foggers and pet products. MOE values were estimated for short- and intermediate-term postapplication inhalation exposures for total release fogger products and space sprays. In addition to dermal and inhalation exposures, MOEs for postapplication incidental hand-to-mouth transfer were estimated for carpet broadcast sprays, foggers, space sprays and pet products. The dermal MOEs for these products range from 460 for the use of the undiluted prallethrin formulation as a carpet spray to 6,700 for the pet dip for adults and from 250 for the same carpet spray to 3,300 for the pet dip for children. The lowest inhalation MOEs are 1,500 for adults and 650 for children for the use of the diluted prallethrin formulation as a space spray and 100 for adults and 47 for children for the use of the undiluted prallethrin formulation. For hand-to-mouth transfer, the MOEs range from 930 to 17,000 for the foggers in children with the exception of the inhalation MOEs for use of the undiluted prallethrin formulation as a space spray. All of the short- and intermediate-term MOEs for postapplication residential exposure are above the Agency's target MOE of 100. Since these MOEs are estimated from exposure levels measured immediately after application and it is expected that the exposure will drop to very low levels after 7 days, the intermediate-term MOE values are low bounding estimates. Due to a low postapplication inhalation MOE (47), the use of the undiluted prallethrin formulation as a space spray will not be permitted in residential and institutional sites such as homes, schools, apartments, and condominiums.

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

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

*D. Aggregate Risks and Determination of Safety for U.S. Population*

1. *Acute risk*. Using the exposure assumptions described in this unit, EPA has concluded that acute exposure to prallethrin from food is not expected to exceed 89% of the aPAD for any of the population subgroups analyzed. Acute aggregate exposure consists of exposures from food and drinking water. According to the use patterns, negligible amounts of prallethrin are expected in the drinking water and no estimates for expected environmental concentrations of prallethrin in the drinking water are necessary. As a result, acute dietary estimates are based only on exposure in the food and as stated above, are not expected to exceed 89% of the aPAD for any of the population subgroups analyzed.

2. *Chronic risk*. Chronic aggregate exposure consists of exposures from food, drinking water, and residential uses which lead to chronic exposures. Using the exposure assumptions described in this unit, EPA has concluded that chronic exposure to prallethrin from food is not expected to exceed 8.6% of the cPAD for any of the population subgroups analyzed. According to the use patterns, negligible amounts of prallethrin are expected in the drinking water and no estimates for expected environmental concentrations of prallethrin in the drinking water are necessary. Chronic residential exposures are also not expected. As a result, chronic aggregate exposure estimates are based only on exposure to the food and as stated above, are not expected to exceed 8.6% of the cPAD for any of the population subgroups analyzed.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. For adults, the short-term aggregate risk estimate (handler and/or postapplication exposure) includes food, dermal and inhalation exposure and the intermediate-term aggregate risk estimate (postapplication exposure only) includes food and dermal exposure (no postapplication inhalation exposure is expected for the products selected for the aggregate risk estimate for adults). For children, the short- and intermediate-term aggregate risk estimates (postapplication exposure only) include food, incidental ingestion, dermal and inhalation exposure (postapplication inhalation exposure is expected for the products selected for the aggregate risk estimates for children). As stated previously, negligible amounts of prallethrin are expected in the drinking water. The estimation of aggregate risk is based on which uses may be potentially employed simultaneously and which have the highest potential exposure (adults: carpet broadcast aerosol spray used with the pet spray; children: total release fogger and the pet mousse).

Since the Agency is recommending against the use of the undiluted prallethrin formulation as a space spray in homes and schools, the short- and intermediate-term aggregate risk estimates do not include the MOE values for this product. The most conservative short-term aggregate MOE for infants and children is 260 and the most conservative short-term aggregate MOE for adults is 250. None of the aggregate short-term MOE's for either adults or children are less than the target MOE of 100. Therefore, the short-term aggregate MOEs for both adults and children are greater than the Agency's level of concern.

Since children are not expected to be residential handlers, the intermediate-term aggregate risks for children are based on postapplication exposures only. In addition, for estimation of the intermediate oral MOE, the oral NOAEL is taken from the chronic dietary endpoint. The NOAEL from the chronic dietary endpoint is one-half the NOAEL from the acute dietary endpoint from which the short-term oral MOEs were estimated. The most conservative intermediate-term aggregate MOE for infants and children is 190 and the most conservative intermediate-term aggregated MOE for adults is 670. All of the aggregate intermediate-term MOE's for both adults and/or children are greater than the target MOE of 100 and are thus, greater than the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population*. Prallethrin is classified as not likely to be a human carcinogen. Therefore a risk assessment is not required since prallethrin is not expected to pose a cancer risk.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to prallethrin residues.

*E. Aggregate Risks and Determination of Safety for Infants and Children*

1. *Safety factor for infants and children*—i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of prallethrin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined interspecies and intraspecies variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*. See the toxicological profile in Unit III.A. of this document.

iii. *Reproductive toxicity study*. See the toxicological profile in Unit III.A. of this document.

iv. *Prenatal and postnatal sensitivity*. The reproductive and developmental data provided no indication of increased susceptibility for rats and rabbits to *in utero* and/or postnatal exposure to prallethrin. In the prenatal developmental toxicity studies in rats and rabbits, no evidence of developmental toxicity was seen at any dose level. In the 2-generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity. These effects (decreased pup body weights during the lactation period) were not considered to be qualitatively more serious than the effects observed in the parents (decreased body weights and body weight gains, increased liver weights and microscopic findings in the liver, kidney, thyroid and pituitary).

v. *Conclusion*. There is a complete toxicity data base for prallethrin, and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Based on the completeness of the toxicity data base and prenatal and postnatal toxicity of prallethrin, no additional safety factor is needed to protect infants and children.

2. *Acute risk*. Acute aggregate exposure consists of exposures from food and drinking water. Using the exposure assumptions described in this unit, EPA has concluded that acute exposure to prallethrin from food will utilize 89% of the aPAD for children (1–6 years), the most highly exposed population subgroup. As stated previously, negligible amounts of prallethrin are expected in drinking water. Therefore, EPA does not expect the acute aggregate exposure to prallethrin to exceed 100% of the aPAD. EPA generally has no concern for exposures below 100% of the aPAD because the aPAD represents the level at or below which daily aggregate dietary exposure will not pose appreciable risks to human health.

3. *Chronic risk*. Chronic aggregate exposure consists of exposures from food, drinking water, and residential uses which lead to chronic exposures. Using the exposure assumptions described in this unit, EPA has concluded that chronic exposure to prallethrin from food will utilize 8.6% of the cPAD for children (1–6 years), the most highly exposed population subgroup. As stated previously, negligible amounts of prallethrin are expected in drinking water and chronic residential exposures are not expected. Therefore, EPA does not expect the chronic aggregate exposure to prallethrin to exceed 100% of the cPAD. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily lifetime aggregate exposure will not pose appreciable risks to human health.

4. *Short- or intermediate-term risk*. For children, the short- and intermediate-term aggregate risk estimates (postapplication exposure only) include food, incidental ingestion, dermal and inhalation exposure (postapplication inhalation exposure is expected for the products selected for the aggregate risk estimates for children). As stated previously, negligible amounts of prallethrin are expected in the drinking water. The estimation of aggregate risk is based on which uses may be potentially employed simultaneously and which have the highest potential exposure (children: total release fogger and the pet mousse). The most conservative short-term aggregate MOE for infants and children is 260. None of the aggregate short-term MOE's for either adults or children are less than the target MOE of 100.

The intermediate-term aggregate risks for children are based on postapplication exposures only. In addition, for estimation of the intermediate oral MOE, the oral NOAEL is taken from the chronic dietary endpoint. The NOAEL from the chronic

dietary endpoint is one-half the NOAEL from the acute dietary endpoint from which the short-term oral MOEs were estimated. All of the aggregate intermediate-term MOE's for children are greater than the target MOE of 100 and are thus, greater than the Agency's level of concern.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to prallethrin residues.

**IV. Other Considerations**

*A. Metabolism in Plants and Animals*

Currently, there are no agricultural uses for prallethrin, therefore, there are no metabolism studies in plants and animals. For food handling establishments EPA assumes that the residue of concern will be for the parent only.

*B. Analytical Enforcement Methodology*

Adequate enforcement methodology—gas chromatography with final electron capture detection, are available for analyses of prallethrin in/on food items associated with food handling establishments. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

*C. Magnitude of Residues*

Adequate residue data were provided to support a tolerance of 1.0 ppm. Residue levels of prallethrin in food items resulting from the application of ULV fogger spray and contact spray to food handling establishments were below the Agency's level of concern. No residues were detected following contact sprays with the exception of 0.1 ppm prallethrin in a peanut sample at the 4x normal application rate after 10 treatments. The highest residue found in covered commodities following ULV fogger application at the label rate was 0.54 ppm in a flour sample.

*D. International Residue Limits*

There are no CODEX, Canadian, or Mexican tolerances for prallethrin. Therefore, harmonization of international tolerances is not of concern at this time.

*E. Endocrine Disruption.*

FQPA requires that EPA develop a screening program to determine whether certain substances (including all pesticides and inert ingredients) ''may have an effect in humans similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect...'' EPA has been working with interested stakeholders, including other government agencies, interest groups, industry and research scientists to develop a screening and testing program as well as a priority setting scheme to implement this program. The Agency's proposed Endocrine Disrupter Screening Program was published in the **Federal Register** of December 28, 1998 (63 FR 71541). The Program uses a tiered approach and anticipates issuing a Priority List of chemicals and mixtures for Tier I screening in the year 2000. As the Agency proceeds with the implementation of this program, further testing of prallethrin and its end-use products for endocrine effects may be required.

**V. Conclusion**

Therefore, the tolerance is established for residues of prallethrin, in or on all food items in food handling establishments where food and food products are held, processed, prepared, and/or served at 1.0 ppm.

**VI. Objections and Hearing Requests**

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300987 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 25, 2000.

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

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

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

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

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to:

James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300987, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

## VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

## VIII. Submission to Congress and the Comptroller General

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

## List of Subjects in 40 CFR Part 180

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

Dated: May 11, 2000.

**Susan B. Hazen,**

*Acting Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

2. Section 180.545 is added to read as follows:

### § 180.545 Prallethrin (RS)-2-methyl-4-oxo-3-(2-propynyl)cyclopent-2-enyl (1RS)-cis, trans-chrysanthemate; tolerances for residues.

(a) *General.* (1) A tolerance of 1.0 ppm is established for residues of the insecticide prallethrin (*RS*)-2-methyl-4-oxo-3-(2-propynyl)cyclopent-2-enyl (1*RS*)-*cis*, *trans*-chrysanthemate as follows:

(2) In or on all food items in food handling establishments where food and food products are held, processed, prepared and/or served.

(3) Application shall be limited to space, general surface, and spot and/or crack and crevice treatment in food handling establishments where food and food products are held, processed, prepared and/or served. General surface or space spray applications may be used only when the facility is not in operation provided exposed food has been covered or removed from the area being treated prior to application. Spot and/or crack and crevice application

may be used while the facility is in operation provided exposed food is covered or removed from the area being treated prior to application. Spray concentrate shall be limited to a maximum of 2.0% active ingredient. Contamination of food or food contact surfaces shall be avoided. Food contact surfaces and equipment should be throughly washed with an effective cleaning compound and rinsed with potable water after use of the product.

(4) To assure safe use of the additive, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 00–16077 Filed 6–23–00; 8:45 am]

BILLING CODE 6560–50–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### 42 CFR Parts 409, 410, 411, 413, 424, and 484

**[HCFA–1139–N]**

### Medicare Program; Town Hall Meeting on July 18, 2000 to Present an Overview of the Home Health Prospective Payment System Final Rule

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of meeting on final rule.

**SUMMARY:** This notice announces a public meeting to provide information on the home health prospective payment system (HH PPS) final rule. We intend to publish the final rule on or about June 30, 2000 in the **Federal Register**.

**DATES:** The HH PPS town hall meeting is scheduled for Tuesday, July 18, 2000, from 10:30 a.m. until 3:30 p.m., E.S.T.

**ADDRESSES:** The meeting will be held in the HCFA Central Office Main Auditorium, 7500 Security Boulevard, Baltimore, MD 21244–1850 with satellite broadcast viewing areas located in Boston, Chicago, Atlanta, and San Francisco.

**FOR FURTHER INFORMATION CONTACT:** Robin Phillips, HCFA, (410) 786–3010 (for general information). Alison Horan, The Lewin Group, (703) 269–5606 (for registration information).

**SUPPLEMENTARY INFORMATION:** We intend to publish the home health prospective payment system (HH PPS) final rule in the **Federal Register** on or about June 30, 2000. We are planning to hold a town hall meeting on Tuesday, July 18, 2000. We anticipate interested parties to include: the home health agency (HHA) industry association representatives, HHA administrators and owners, home care professionals, university-based and private research organizations, Congressional members and staff, home care software vendors, beneficiary advocates, and other interested parties.

In this meeting, we will provide an overview of the HH PPS final rule and will focus on a number of its key components and present past and current research efforts related to the HH PPS.

This meeting will be broadcast live from the HCFA Central Office Main Auditorium and will include four satellite broadcast viewing sites in Boston, Chicago, Atlanta, and San Francisco. All five sites have a capacity of approximately 500 individuals. The audiences viewing the broadcast via satellite will have the ability to participate in the question-and-answer period at the end of this presentation. For those who cannot attend in Baltimore, the address of the downlink sites, registration information, and satellite coordinates for this presentation will be posted on the HCFA website www.hcfa.gov or you may contact Alison Horan of The Lewin Group at (703) 269–5606. Once individuals are on this website, they will need to highlight the red bullet, in the lower right hand corner, titled ''Events, Meetings, and Workgroups.''

The meeting will conclude with a question-and-answer session including the HCFA Central Office location as well as the three-satellite downlink sites. The toll-free phone number to call to participate will be broadcast during the meeting.

While the meeting is open to the public, attendance is limited to the space available. Individuals must register in advance as described below.

The Lewin Group will handle registration for all five meeting sites. Individuals may register through on the HCFA website, www.hcfa.gov or you may contact Alison Horan of The Lewin Group at (703) 269–5606. Once individuals are on this website, they will need to highlight the red bullet, in the lower right hand corner, titled ''Events, Meetings, and Workgroups.''

Each participant will receive a confirmation letter as receipt of registration. Each participant will be provided with a meeting agenda at the time of the meeting. If individuals have any questions regarding registration, they should contact The Lewin Group, Alison Horan of The Lewin Group at (703) 269–5606.

**Authority:** Section 1895 of the Social Security Act (42 U.S.C. 1395fff).

Dated: June 21, 2000.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 00–16045 Filed 6–23–00; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 660

**[Docket No. 000619185–0185–01; I.D. 042400H]**

**RIN 0648–A006**

### Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Northwestern Hawaiian Islands Lobster Fishery; Closure of the Year 2000 Fishery

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

**ACTION:** Final rule; emergency closure.

**SUMMARY:** NMFS issues a final rule to close the 2000 Northwestern Hawaiian Islands (NWHI) commercial lobster fishery, which is scheduled to open on July 1, 2000. This rule, which is authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), amends current regulations promulgated under the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region (FMP). NMFS is closing the lobster fishery to prevent the potential for overfishing lobster resources.

**DATES:** Effective July 1, 2000, through December 31, 2000.

**ADDRESSES:** Copies of the Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis (FRFA) are available from Dr. Charles Karnella, Administrator, Pacific Islands Area Office, NMFS (PIAO), 1601 Kapiolani Blvd., Rm 1101, Honolulu, HI 96814.

**FOR FURTHER INFORMATION CONTACT:** Alvin Katekaru, PIAO, 808–973–2937,

fax 808–973–2941, e-mail *alvin.katekaru@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** NMFS issues a final rule, under section 305(c) of the Magnuson-Stevens Act, to close the 2000 commercial lobster fishery in the NWHI. This emergency action is being taken because NMFS is concerned about the potential for overfishing the lobster stocks in the NWHI. While calculating the year 2000 estimates of exploitable population of lobsters, utilizing the same analytical procedures that were used to estimate exploitable populations in 1998 and 1999, Southwest Fisheries Science Center scientists expressed alarm at the increasing level of uncertainty in their computations. The scientists also noted a lack of appreciable rebuilding of lobster populations, despite significant reductions in fishing effort throughout the NWHI. Given the shortcomings in understanding the dynamics of the NWHI lobster populations, the increasing uncertainty in model parameter estimates, and the lack of appreciable rebuilding of the lobster population, NMFS is closing the NWHI commercial lobster fishery as a precautionary measure.

A proposed rule to close the fishery was published on April 28, 2000 (65 FR 24906), requesting public comments through May 15, 2000. Comments were received from five individuals; the comments did not prompt any changes to the proposed rule. The final rule, therefore, is the same as the proposed rule. Additional background information may be found in the preamble to the proposed rule.

**Comments and Responses**

*Comment 1:* A commenter strongly opposes closure of the fishery based on the uncertainty of NMFS' stock assessment models, and felt that NMFS should withdraw the proposed rule and allow the fishery to open with a harvest guideline of no more than 130,000 lobsters.

*Response:* While calculating the year 2000 estimates of the exploitable population of lobsters, NMFS scientists encountered an increasing level of uncertainty in their computations utilizing the same analytical procedures that were used to estimate exploitable populations in 1998 and 1999. Also they noted violations of several of the population model's assumptions and the lack of appreciable rebuilding of lobster populations, despite significant reductions in fishing effort. These are the major reasons why NMFS is taking precautionary action to close the fishery. The commenter suggests using a harvest guideline of 130,000 lobsters. Although this harvest guideline contains a bias-adjustment factor based on fishing mortality, there is also uncertainty associated with the value of F (fishing mortality). Accordingly, NMFS believes that allowing the commercial fishery to operate under a harvest guideline of 130,000 lobsters is not sufficiently precautionary for the long-term health of the stock.

*Comment 2:* A commenter suggests that the commercial lobster fishermen enter into an agreement with NMFS to fish according to an appropriate research protocol. The Commenter states that such an approach is as precautionary as a closure of the fishery and allows for the collection of data to improve the understanding of the fishery and model parameters.

*Response:* NMFS endorses joint industry initiatives that facilitate cost-effective data collection. However, given the immediate concerns about the lobster resources, NMFS believes that closure of the fishery associated with an experimental fishery program (EFP) provides cost-effective control over the number of lobsters harvested, data collected, and the specimens tagged by the commercial fishermen. NMFS notes that the Western Pacific Fishery Management Council's (Council) Crustacean Plan Team, which recommended closure of the fishery beginning in 2000, suggested several alternatives for monitoring the fishery, including the implementation of an EFP.

*Comment 3:* A commenter states that if the fishery is closed, NMFS' current lobster tagging study would be prematurely and effectively terminated, and that important data needed to estimate fishing mortality (F) and lobster population size would be lost. The commenter also stated that the fishery should be maintained to improve the value of the tagging program.

*Response:* NMFS agrees that terminating all lobster fishing would affect NMFS' ongoing and proposed lobster tagging studies, as well as compromise the Council's and NMFS' ability to make informed resource management and conservation decisions in the future. However, closing the commercial fishery and implementing an EFP is the most effective approach to achieve the objectives of the lobster tagging studies and data collection efforts.

*Comment 4:* A commenter feels that there is no evidence of overfishing; that the FMP's constant rate policy is conservative and precautionary; and that if the NWHI commercial lobster fishery is allowed to operate under a harvest guideline of 194,000, 130,000, or 88,000 lobsters, these levels would still be above the current overfishing threshold, either Spawning Potential Ratio- or Maximum Sustainable Yield-based.

*Response:* Although NMFS agrees that the FMP's constant harvest rate policy (13 percent removal of the annual exploitable population which is associated with a 10 percent risk of overfishing) is conservative, and is not aware of any written documentation showing that the lobster stocks are overfished, NMFS has serious concern over the uncertainty of the lobster population estimates of the annual exploitable lobster population. To ensure that overfishing of the lobster stocks does not occur, the precautionary approach of the closure is being taken.

*Comment 5:* One commenter states that the ''bias-correction factor'' applied by NMFS, which is based on catchability coefficients (q) to derive an adjusted 88,270 harvest guideline, is less valid than a (F)-based correction factor so that a harvest guideline of 130,000 lobsters for the 2000 NWHI lobster fishery is more appropriate.

*Response:* Discussions among the scientists regarding the statistical merit of using q- and F-based bias-adjustment factors underscore the concern over the uncertainty present in the model parameters used to calculate the annual exploitable population. There are no reliable estimates of (F); there is more uncertainty associated with an F-based adjustment factor than a (q)-based adjustment factor. Also, NMFS scientists have noted that model-based versus experiment-based differences in (q) result in significant differences in estimates of exploitable population. Given these uncertainties, NMFS believes the appropriately conservative course of action is to close the fishery and re-estimate the biological and fishery parameters. A lobster tagging program, under an EFP, is a way to address the concern about the increasing level of uncertainty in model parameter estimates.

*Comment 6:* One commenter states that NMFS is justifying closure based in part on data showing a decline in the recruitment of 2–yr old lobsters at Necker Island over the last decade, in spite of rising commercial catch per unit of effort (CPUE). This commenter states that NMFS has not presented confidence intervals to determine the validity of the declining trend, and suggested that NMFS should conduct a statistical power test on the number of trap-hauls at Necker to address the 50

percent change in population abundance.

*Response:* NMFS believes that while confidence intervals were not provided in the lobster recruitment data for Necker Island, the declining trend shown by the data is obvious and part of the basis for closing the NWHI lobster fishery. The other strong rationale for closing the fishery include the increasing uncertainty associated with several parameters of the model used to estimate exploitable population size (i.e., catchability) and violations of several of the model's underlying assumptions. Nonetheless, NMFS intends to provide confidence intervals and conduct a power test on the Necker lobster data.

*Comment 7:* A commenter states that NMFS' failure to announce the 2000 lobster harvest guideline by the end of February resulted in unnecessary stress on the NWHI lobster permit holders and that closure of the fishery will impose economic hardship on the fishermen.

*Response:* The need to close the fishery became apparent as NMFS analyzed the lobster data while calculating the 2000 harvest guideline. NMFS is sensitive to the economic hardship some fishermen may face as result of the closure, but notes that the closure is expected to promote a sustainable fishery having greater positive impacts on revenues and fishermen in the long term.

*Comment 8:* A commenter strongly opposes closure of the fishery, but said that if NMFS proceeds to close the fishery, the NWHI Area 4 lobster fishing grounds should be included in the EFP. In addition, NMFS should provide the scientific background to support an EFP harvest level substantially below 88,270 lobsters, and that NMFS should provide assurance that the 2000 EFP will enable the development of an improved population model.

*Response:* For 2000, NMFS does not intend to allow lobster harvest in Area 4 because NMFS scientists are unable to compute an allowable level of harvest appropriate under an EFP. NMFS is preparing a NWHI lobster research plan and intends to consult with the Council prior to implementation of an EFP. This consultation will include the scientific background on the harvest levels for Necker Island, Maro Reef, and Gardner Pinnacles under an EFP. NMFS plans to develop a sampling plan for Area 4 beyond the year 2000. The scientific and fishery information obtained through the EFP will be used to replace or improve the current NWHI lobster stock assessment model.

*Comment 9:* A commenter feels that there should be an explanation of the scientific process by which NMFS implemented the ''precautionary approach'' to offset an increase in uncertainty of model parameters, including the transparency of the estimation process.

*Response:* The scientific rationale for NMFS' proposed closure is contained in a memorandum, dated February 3, 2000, from the NMFS Southwest Fisheries Science Center Director (See Response 1). Also, NMFS scientists discussed the proposed closure of the lobster fishery in open meetings with the Council and its Scientific and Statistical Committee. Details on the population estimation algorithms are available in Amendments 7 and 9 to the FMP.

*Comment 10:* The increase in uncertainty in model parameters should be quantified.

*Response:* The term ''uncertainty'' is used in this context to reflect apparent violations and shortcomings of the model's assumptions and doubt as to the resulting calculations. It does not refer to statistical uncertainty and thus cannot be computed or quantified.

*Comment 11:* One commenter requests the exact Magnuson-Stevens Act citation that allows for a ''precautionary closure.''

*Response:* The Magnuson-Stevens Act does not use the term ''precautionary'' in this context; however, it is used in the national standard guidelines governing fishery management plans and their implementing regulations at 50 CFR 600.31(f)(5). The term ''precautionary'' is used in this context to describe NMFS' proposed action in light of the increased uncertainty to ensure that the lobster stocks are not overfished. A closure is ''precautionary'' in the sense that there is less risk to the lobster stocks in closing the fishery than in using the current model to derive a harvest guideline. Under the discretionary provisions of section 303 of the Magnuson-Stevens Act, a fishery management plan may designate zones where, and periods when, fishing shall be limited, or shall not be permitted; establish specified limitations on the catch of fish which are necessary and appropriate for the conservation and management of the fishery; prohibit the use of specified types and quantities of fishing vessels; and prescribe such other measures, requirements, or conditions and restrictions that are determined to be necessary and appropriate for the conservation and management of the fishery.

*Comment 12:* A commenter wonders to what extent NMFS is working ''collusively'' with the environmental community under threat of litigation to close the fishery to protect marine mammals.

*Response:* There have been no collusive or secret agreements between NMFS and the environmental community or anyone else to close the lobster fishery under threat of litigation. NMFS proposed to close the fishery based on concerns for the potential of overfishing the lobster resources.

*Comment 13:* A commenter asks what the agency has done in the past year, and what it plans to do this year (aside from planning an experimental fishery) to address the uncertainty in model parameters

*Response:* NMFS conducted a lobster research survey and tagged lobster in 1999; a similar survey will be conducted in 2000. In addition, the agency is continuing lobster research at Necker Island utilizing the tag, release, and recapture of spiny lobsters. NMFS is also reassessing the model used to estimate exploitable lobster populations with the objective of refining the model, its assumptions, and parameter estimates. Improvements to the existing model are anticipated in the future.

*Comment 14:* A commenter notes that the Marine Mammal Commission, which previously recommended a 3-year closure because of its belief that the lobster fishery effects prey resources important to the recovery of the endangered Hawaiian monk seal, commented that the proposed closure for the year 2000 is a step toward this recommendation.

*Response:* NMFS is closing the fishery because of the potential for overfishing the lobster resources in the NWHI. NMFS believes there is insufficient data at this time to support statements that the fishery affects an important source of prey for any species of marine mammal including the Hawaiian monk seal.

*Comment 15:* A commenter states that the downward trend of lobster CPUE demonstrates that the lobster stock needs time to rebuild, and that there should be a 3-year closure to allow rebuilding of the lobster stocks.

*Response:* To a large degree, the declining trend in lobster CPUE has been attributed to a large-scale shift in the Pacific Ocean ecosystem as it changed from a more productive state to a less productive one. Similar declines in population size have been detected for reef fish and bird populations throughout the Pacific Basin (see: Polovina, et al., 1994 Physical and biological consequences of a climate event in the central North Pacific. Fish. Oceanogr. 3(1):15–21)

*Comment 16:* A commenter is concerned that depletion of the NWHI

lobster resource has been implicated in the death of certain (emaciated) monk seals.

*Response:* As previously stated, the basis for closing the fishery is due to NMFS' concerns about the potential for overfishing the lobster resources. NMFS believes there are insufficient data at this time to support statements that lobster represents an important source of prey for any species of marine mammal, including the Hawaiian monk seal.

*Comment 17:* A commenter feels that depletion of lobster resources may be having negative effects on species of other trophic levels and may have compromised the predator/prey relationship of other species (e.g., reef fish, sharks and mollusks) in areas where lobster populations are especially depressed.

*Response:* The fishery is not being closed due to depletion of lobster resources, rather it is being closed as a precautionary action to prevent such an event from occurring. At this time, there are no scientific data that indicate the commercial lobster fishery is having a negative impact on the trophic levels or predator/prey relationships in the reef ecosystem of the NWHI. Future research should provide answers to any assertions regarding the impacts the fishery may be having on the trophic levels and predator-prey relationships in the NWHI coral reef ecosystem.

*Comment 18:* A commenter recommends that there be a moratorium until an appropriate experimental fishery program is developed and approved.

*Response:* NMFS agrees. NMFS is developing an EFP to obtain a reliable estimate of the exploitable population of lobsters in the NWHI. The results of the EFP will help enable NMFS to manage the lobster fishery on a sustainable basis for the long term.

*Comment 19:* A commenter supports closure, stating that the fishery has already been severely overfished, affecting not only lobster stocks but also monk seals that rely in part on lobster as an important food source.

*Response:* The fishery is being closed because of concerns about the potential for overfishing the lobster resources. The data do not support the statement that the fishery is or has been overfished or that lobster represents an important source of prey for any species of marine mammal, including the Hawaiian monk seal.

*Comment 20:* A commenter opposes any form of an experimental fishery in 2000 that would deplete the lobster stocks, stating that such a fishery is unwise and would present unacceptable risk to the lobsters and monk seals.

*Response:* NMFS will make available its complete analysis of any experimental fishery proposal prior to its implementation. Lobster harvest levels under an EFP will be determined solely on the basis of scientific needs and will be set at conservative levels.

**Classification**

The Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(d)(3), finds for good cause, namely the need to have the final rule in place on or before July 1, 2000, the scheduled opening of the lobster fishing season, would make a 30-day delay in effective date contrary to the public interest. Accordingly, the rule is being made effect on July 1, 2000. This emergency rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) that described the impact the proposed rule would have on small entities (65 FR 24906, April 28, 2000). No comments were received on the IRFA. A FRFA has been prepared in compliance with 5 U.S.C. 604(a). The reasons for, objectives of, and legal basis for this rule are described elsewhere in this preamble.

The FRFA discusses the economic impacts under the following scenarios: (1) Alternative 1— the fishery opens on July 1, 2000, with a harvest guideline of 243,100 lobsters (spiny and slipper lobsters combined) distributed among the four established lobster grounds (as in 1999) as follows: Necker Island, 54,600 lobsters; Gardner Pinnacles, 27,690 lobsters; Maro Reef, 89,570 lobsters; all other NWHI lobster grounds combined (Area 4), 71,240 lobsters; (2) Alternative 2—the fishery opens on July 1, 2000, with a harvest guideline of 88,270 lobsters (spiny and slipper lobsters combined) distributed among the established lobster grounds as follows: Necker Island, 35,230 lobsters; Gardner Pinnacles, 17,550 lobsters; Maro Reef, 35,490 lobsters; all other NWHI lobster grounds combined, zero lobsters; (3) Alternative 3—the fishery opens on July 1, 2000, with a harvest guideline of 194,350 lobsters (spiny and slipper lobsters combined) distributed among the established lobster grounds as follows: Necker Island, 58,110 lobsters; Gardner Pinnacles, 28,860 lobsters; Maro Reef, 85,150 lobsters; and all other NWHI lobster grounds combined, 22,230 lobsters; and (4) Alternative 4 (preferred alternative)—extend the closed season from July 1 through December 31, 2000 (the NWHI commercial lobster fishery is closed during 2000). The preferred alternative is anticipated to preserve and enhance the productive capability of the fishery's target lobster stocks as well as any incidentally caught species. However, a fishery closure will have negative impacts on the fishery participants who rely on this fishery for a portion of their annual income. The five to six participants in this fishery have realized average annual ex-vessel revenues of $1.1 million during the last two seasons (approximately $200,000 per vessel). Although all participants engage in other fisheries, the NWHI lobster fishery occurs during a comparatively slow season for their alternate fisheries; therefore, the lobster fishery represents an important component of the participants' annual activities and income. This component and its associated revenue will be lost to fishery participants under the preferred alternative. The relative importance of this fishery to participants is undetermined, but it may be roughly equal to 25 percent to 33 percent (3 to 4 months) of their annual gross revenues. The opportunity to participate in the 2000 NWHI commercial lobster fishery, and its associated revenues, will be lost to fishery participants under the preferred alternative.

The permit holders who will be impacted by the closure of the fishery are the 13 individuals who currently hold NWHI crustacean fishery limited entry permits. Currently, these permit holders own a total of 10 vessels that are registered with lobster fishing permits. In the past two seasons, five vessels fished for lobsters in 1998 and six vessels fished in 1999 (only one vessel participated in the lobster fishery during both seasons). Nonetheless, all permit holders will be vulnerable to reductions in the value of their permits. Seasonal markets for NWHI lobsters may also be adversely affected under the preferred alternative. Because this is a relatively small fishery, marketing of its product has been challenging, as wholesalers and retailers prefer predictable and reliable supply sources. However, a reputation for a locally-produced, quality product has been established and buyers willing to participate on a seasonal basis have been found. The preferred alternative will have a negative impact on these connections and reestablishment of market channels may be difficult. Assuming a 10 percent profit margin, a fishery closure that results in a loss of $1.2 million in ex-vessel product would represent an estimated net loss of $120,000 to shoreside processors and wholesalers.

Despite these negative impacts, the preferred alternative is expected to promote a sustainable fishery that is anticipated to result in greater positive impacts on fishery revenues and participants over the long term. The preferred alternative will not implement any additional recordkeeping or other compliance requirements, and does not duplicate, overlap or conflict with other Federal regulations.

Alternatives 1, 2, and 3 were rejected because they do not address concerns about the potential for overfishing the lobster resources in a sufficiently precautionary manner. However, NMFS scientists have expressed concern over the lack of data that would result from a complete prohibition of all lobster fishing activities, and are developing a research plan for an experimental fishery program (EFP) that would enable NMFS to continue to collect data for lobster stock assessment in a controlled manner. The results of an EFP are expected to enable the Council and NMFS to make informed management and conservation recommendations on the NWHI lobster resource and fishery in the future. NMFS is considering a 2000 experimental lobster fishery which, if approved, will be assessed prior to implementation. A copy of the FRFA is available from NMFS (see **ADDRESSES**).

An informal consultation under the Endangered Species Act was concluded for this action on April 18, 2000. As a result of the informal consultation, the Regional Administrator concluded that the emergency closure of the fishery will have no effect on federally listed species and will not result in the destruction or modification of designated critical habitat.

**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: June 20, 2000.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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

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

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

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

2. In § 660.45, effective from July 1, 2000, through December 31, 2000, paragraph (a) is suspended, and a new paragraph (c) is added to read as follows:

### § 660.45 Closed seasons.

* * * * *

(c) Lobster fishing is prohibited in Permit Area 1 from July 1, 2000, through December 31, 2000.

### § 660.48 [Amended]

3. In § 660.48, paragraph (a)(9) is suspended effective from July 1, 2000, through December 31, 2000.

### § 660.50 [Suspended]

4. Section 660.50 is suspended effective from July 1, 2000, through December 31, 2000.

[FR Doc. 00–16111 Filed 6–23–00; 8:45 am]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register
Vol. 65, No. 123
Monday, June 26, 2000

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.

## FARM CREDIT ADMINISTRATION

### 12 CFR Parts 614, 615, and 618

**RIN 3052–AB96**

### Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; OFI Lending

**AGENCY:** Farm Credit Administration (FCA).

**ACTION:** Advance notice of proposed rulemaking (ANPRM); reopening of comment period.

**SUMMARY:** We are reopening the comment period on our ANPRM that asks you to comment on the appropriate capital risk weighting of Farm Credit System (System) bank loans to other financing institutions (OFIs), the public availability of the identities of OFIs, cross-district funding of OFIs, and ways to improve System banks' funding of OFIs. We are reopening the comment period on the ANPRM until July 19, 2000, so that interested parties have additional time to provide comments.

**DATES:** Please send your comments to us on or before July 19, 2000.

**ADDRESSES:** Send us your comments by electronic mail to ''reg-comm@fca.gov'' or through the Pending Regulations section of our Web site at ''*www.fca.gov.*'' You may also send written comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or by facsimile transmission to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

**FOR FURTHER INFORMATION CONTACT:**

Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,
or
Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

**SUPPLEMENTARY INFORMATION:** On April 20, 2000, we published an ANPRM in the **Federal Register** to seek comment on whether we should revise FCA's regulations to improve and better promote OFI access to System funding. The comment period expired on June 19, 2000. *See* 65 FR 21151, April 20, 2000. In response to a request, we are reopening the comment period until July 19, 2000, so that commenters will have more time to respond.

Dated: June 20, 2000.

**Vivian L. Portis,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 00–16053 Filed 6–23–00; 8:45 am]

BILLING CODE 6705–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–109101–98]**

**RIN 1545–AW27**

### Special Rules Regarding Optional Forms of Benefits Under Qualified Retirement Plans; Hearing Cancellation

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of cancellation of a public hearing on proposed regulations under section 411(d), permitting qualified defined contribution plans to be amended to eliminate some alternative forms in which an account balance can be paid under certain circumstances, and would permit certain transfers between defined contribution plans that are not permitted under regulations now in effect.

**DATES:** The public hearing originally scheduled for Tuesday, June 27, 2000, at 10 a.m., is cancelled.

**FOR FURTHER INFORMATION CONTACT:**

LaNita Van Dyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Wednesday, March 29, 2000, (65 FR 16546), announced that a public hearing was scheduled for Tuesday, June 27, 2000, at 10 a.m., in Room 6718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 411(d) of the Internal Revenue Code. The public comment period for these proposed regulations expires on Tuesday, June 27, 2000. The outlines of topics to be addressed at the hearing were due on Tuesday, June 6, 2000.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Friday, June 16, 2000, no one has requested to speak. Therefore, the public hearing scheduled for Tuesday, June 27, 2000, is cancelled.

**Cynthia Grigsby,**

*Chief, Regulations Unit, Assistant Chief Counsel (Corporate).*

[FR Doc. 00–15867 Filed 6–23–00; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 917

**[KY–226–FOR]**

### Kentucky Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period.

**SUMMARY:** OSM is announcing a proposed action to preempt and supersede portions of Kentucky Revised Statute (KRS) 350.060(16). The 1998 Kentucky General Assembly enacted this provision, which pertains to the renewal of expired permits, into law by passing House Bill 593.

It proposed that if a permit has expired or a permit renewal application

has not been timely filed and the operator or permittee wants to continue the surface coal mining operation, Kentucky will issue a notice of noncompliance (NOV). The NOV will be considered complied with, and the permit may be renewed, if Kentucky receives a permit renewal application within 30 days of the receipt of the NOV. Upon submittal of a permit renewal application, the operator or permittee will be deemed to have timely filed the application and can continue, under the terms of the expired permit, the mining operation, pending issuance of the permit renewal. Failure to comply with the remedial measures of the NOV will result in the cessation of the operation.

Portions of this provision would allow a permittee to continue mining on an expired permit after the permit renewal application has been filed within 30 days of the receipt of the NOV, regardless of whether the application is timely filed, and even if the application is filed after permit expiration.

OSM is taking this action because the provisions are inconsistent with the requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This determination is based on reasons cited in the ''Director's Findings'' section in a separate notice published on May 10, 2000 (65 FR 29949), announcing disapproval of the statutory provision.

**DATES:** If you submit written comments, they must be received by 4:00 p.m. (local time) on July 26, 2000.

**ADDRESSES:** Mail or hand-deliver your written comments or requests for further information to William J. Kovacic, Director, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8400. E-mail: bkovacic@osmre.gov.

You may review copies of the Kentucky program, the proposed modification to the program, and all written comments received in response to this document at the Lexington Field Office at the address listed above during normal business hours, Monday through Friday, excluding holidays.

**SUPPLEMENTARY INFORMATION:**

## I. Public Comment Procedures

*Written Comments*

If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, be confined to issues pertinent to the notice, and explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

*Electronic Comments*

Please submit Internet comments as an ASCII, WordPerfect, or Word file and avoid using special characters and any form of encryption. Please also include ''Attn: SPATS No. KY–226–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Lexington Field Office at (859)260–8400.

*Availability of Comments*

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you want us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

## II. Background

You can find detailed background on the actions proposed in this document in a notice of final rulemaking pertaining to the Kentucky program published on May 10, 2000 (65 FR 29949).

## III. Director's Findings and Proposed Action

Pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), we propose to preempt and supersede certain portions of KRS 350.060(16). The complete text of KRS 350.060(16) reads as follows:

Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred twenty (120) days prior to the expiration of the valid permit. However, if a permit has expired or if a permit renewal application has not been timely filed, and the operator or permittee desires to continue the surface coal mining operation, the cabinet shall forthwith cause a notice of noncompliance to be issued. The notice of noncompliance shall be deemed to have been complied with, and the permit may be renewed, if the cabinet receives a permit renewal application within thirty (30) days of the receipt of the notice of noncompliance. Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal. Failure to comply with the remedial measures of the notice of noncompliance shall result in the cessation of the surface coal mining operation.

The specific wording proposed for preemption and supersession are the phrase ''if a permit has expired or * * *,'' and the following sentence:

> Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.

We are taking this action because we have initially determined that these provisions are inconsistent with section 506 of SMCRA and less effective than 30 CFR 843.11 based on the reasons cited under ''Director's Findings'' in a separate notice of final rulemaking as noted above.

We are now soliciting comments on this proposal to preempt and supersede the portions of KRS 350.060(16) that are quoted above. If we receive no evidence demonstrating why these portions should not be preempted and superseded, we will publish a final notice to effect the supersession of the provisions by Federal law. This action, if taken, will require the State to operate and enforce the approved program as if the preempted and superseded provisions did not exist.

## IV. Procedural Determinations

*Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

*Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the

roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 16, 2000.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 00–16088 Filed 6–23–00; 8:45 am]

BILLING CODE 4310–05–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 50, 52 and 81

**[FRL–6713–7]**

**RIN 2060–AJ05**

## Rescinding the Finding that the Pre-existing PM–10 Standards Are No Longer Applicable in Northern Ada County/Boise, ID

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Today, EPA is proposing to rescind the finding that the pre-existing PM–10 standards and the accompanying designation and classification are no longer applicable in Northern Ada County/Boise, Idaho (''Ada County''). The EPA had previously taken final action regarding the applicability of the pre-existing PM–10 standards for Ada County, Idaho on March 12, 1999. A recent ruling of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) has undermined the basis for EPA's previous determination on the applicability of the pre-existing PM–10 standards. In the ruling, the court vacated the revised national ambient air quality standards (NAAQS) for PM–10, the existence of which served as the underlying basis for EPA's regulations governing such applicability determinations and, thus, the specific finding that the pre-existing PM–10 standards no longer applied in Ada County, Idaho. Since the court has vacated the revised PM–10 standards that we issued in 1997, there are no Federal PM–10 standards currently applicable in that area as required under the Clean Air Act (CAA). The State's approved PM–10 standards remain in effect. Therefore, today we are proposing to rescind the finding that the pre-existing PM–10 standards are no longer applicable in Ada County, Idaho, and to reinstate the applicability of the pre-existing PM–10 standards. Under this proposal, we would reinstate the designation and classification that previously applied in Northern Ada County/Boise with respect to the pre-existing PM–10 standards. EPA has discussed this with the State of Idaho. Further, in today's action EPA is proposing to delete 40 CFR 50.6(d), thus ensuring that the pre-existing PM–10 standards will continue to apply to all areas.

**DATES:** Your comments must be submitted on or before July 26, 2000 in order to be considered.

**ADDRESSES:** You may comment in various ways:

*On paper.* Send paper comments (in duplicate, if possible) to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–2000–13, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 260–7548.

*Electronically.* Send electronic comments to EPA at: A-and-R-Docket@epa.gov. Avoid sending confidential business information. We accept comments as e-mail attachments or on disk. Either way, they must be in WordPerfect 5.1 or 6.0 or ASCII file format. Avoid the use of special characters and any form of encryption. You may file your comments on this proposed rule online at many Federal Depository Libraries. Be sure to identify all comments and data by Docket number A–2000–13.

*Public inspection.* You may read the proposed rule (including paper copies of comments and data submitted electronically, minus anything claimed as confidential business information) at the Office of Air and Radiation Docket and Information Center located at 401 M Street, SW, Washington, DC 20460. They are available for public inspection from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Questions about this proposal should be addressed to Gary Blais (Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Integrated Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3223 or e-mail to blais.gary@epa.gov. To ask about policy matters specifically regarding Northern Ada County/Boise, call Bonnie Thie, EPA Region 10, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–1189.

**SUPPLEMENTARY INFORMATION:**

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G. Paperwork Reduction Act
H. Executive Order 12898: Environmental Justice
I. National Technology Transfer and Advancement Act

## I. Background

### *A. What was the basis for EPA's Previous Rulemaking Actions Finding that the Pre-existing PM–10 Standards no Longer Apply in Ada County, Idaho?*

On July 18, 1997 (62 FR 38856), we issued a regulation replacing the pre-existing PM–10 standards with revised PM–10 standards at a level of 150 μg/m$^3$ on a daily basis, and 50 μg/m$^3$ on an annual basis. We based the form of the revised daily standard on the 3-year average of the 99th percentile concentration value for each of those years measured at each monitor within an area. We based the form of the revised annual standard on the 3-year average of the annual mean concentration for each of those years at each monitor within an area. The new standards, which became effective on September 16, 1997, were issued to provide increased protection to the public, especially children, the elderly, and other at-risk populations.

Also, on July 18, 1997, we announced that the effective date of the revocation of the pre-existing PM–10 NAAQS would be delayed and that, therefore, the existing standards and associated designations and classifications would continue to apply for an interim period. We did this to provide continuity in public health protection during the transition from the pre-existing to the new PM NAAQS. We provided, by regulation, that the pre-existing PM–10 standards would no longer apply to an area attaining those standards based on 3 years of quality-assured monitoring data, and certain other criteria. The regulation indicating the conditions under which the pre-existing PM–10 standards would no longer apply was clearly premised upon the existence of the newly-revised PM standards, and the implementation scheme developed for those standards. See 63 FR 38652, 38701.

The criteria in the regulation at 40 CFR 50.6(d) for determining that the pre-existing PM–10 NAAQS would no longer be applicable for an area, and guidance issued subsequently by EPA, reflect and are consistent with a memorandum issued by President Clinton that same day (62 FR 38421, 38428, July 18, 1997).

On March 12, 1999 (64 FR 12257), we issued final rules approving the State of Idaho's request that EPA revoke the pre-existing PM–10 NAAQS, along with the associated designation and classification, for Ada County because the area had attained those standards and had satisfied the revocation criteria found in 40 CFR 50.6(d). We therefore took action 175 F.3d 1027 (D.C. Cir., 1999) determining that the pre-existing PM–10 standards no longer applied in Ada County.

### *B. What Effect Does the Recent Court Decision Have on Today's Proposed Action?*

On May 14, 1999, the U.S. Court of Appeals for the D.C. Circuit issued an opinion questioning the constitutionality of the CAA authority to review and revise the NAAQS, as applied in EPA's revision to the ozone and particulate matter NAAQS. *American Trucking Association, et al.,* v. *EPA, et al.,* and consolidated cases. The Court stopped short of finding the statutory grant of authority unconstitutional, instead providing EPA with another opportunity to develop a determinate principle for promulgating NAAQS under the statute. In its decision, the Court found there was adequate evidence in the rulemaking record to justify EPA's choice to regulate both coarse and fine particulate matter pollution. Nevertheless, the Court went on to find that the Agency's decision to issue separate, but overlapping, regulations governing fine particles (defined as having an aerodynamic diameter of 2.5 microns or less) and regulations governing coarse particles (defined as having an aerodynamic diameter of 10 microns or less, which, therefore, includes particles sized at 2.5 microns and below) was unreasonable. In the Court's view, implementation of both PM NAAQS together would have led to ''double regulation'' of the PM–2.5 component of the revised PM–10 NAAQS and potential underregulation of pollution above the 2.5 micron size. Consequently, the Court determined that EPA had acted in an arbitrary and capricious manner, and vacated the revised PM–10 NAAQS.

The Ada County revocation rulemaking was based on the existence of the revised PM–10 standards, as well as the transition policy that was put in place to facilitate implementation of those standards. Since the Court vacated those standards, we have no justification for leaving in place a determination that would deprive members of the public in the Ada County area of any Federal protection from high levels of coarse particulate matter pollution. Such a result is untenable, especially when the Agency itself concluded that increased health protection was necessary when it issued its revised PM NAAQS. We therefore, feel the appropriate course is to propose an action that would rescind our previous finding that the pre-existing PM–10 standards are no longer applicable in Ada County. Through restoration of the pre-existing PM–10 standards, we will ensure continued CAA health protection for members of the public living in Ada County, Idaho.

## II. What Action Is EPA Proposing To Take Today?

Today, we are proposing to rescind the Agency's March 12, 1999 finding that the pre-existing PM–10 standards no longer apply in Ada County (64 FR 12257). The intended effect of this proposal, once it undergoes public comment and we take final action, will be that the applicability of the pre-existing PM–10 standards will be restored in Ada County. A consequence of this action, when completed, will be the return of the nonattainment designation and classification associated with those standards.

Further, we are proposing to amend 40 CFR parts 50, 52 and 81 as follows: (1) Part 50, section 50.6(d) will be deleted in its entirety consistent with our decision that the pre-existing PM–10 standards, as reflected in subsections (a) and (b) of 50.6, should continue to apply in all areas. The effect of this action would be that the pre-existing PM–10 standards, as codified at 40 CFR 50.6(a) and (b), would remain applicable to all areas; and (2) part 52, section 52.676, which codified the revocation of the pre-existing PM–10 NAAQS and the removal of the nonattainment designation, will be deleted in its entirety. As a consequence of this action, part 81, § 81.313 will be revised to indicate that the pre-existing PM–10 standards and nonattainment designation apply to Ada County.

## III. What Is the Effect of Rescinding the Previous Finding That the Pre-Existing PM–10 Standards No Longer Apply in Ada County?

The requirements of section 176 of the CAA (U.S.C. 7506), designed to coordinate transportation and air quality planning, will apply immediately upon the effective date of the final action, as it would have the effect of reestablishing the nonattainment designation. We note that the D.C. Circuit has held that EPA could not provide a 1-year grace period for applicability of these transportation regulations, but rather that transportation requirements would apply as a matter of law. *Sierra Club* v. *EPA,* 129 F.3d 137 (D.C. Cir. 1997). Therefore, EPA believes that to interpret the CAA most consistently with the case law, the transportation requirements would apply again to any area that has a nonattainment designation reestablished. This will be the case for Ada County if we take final action consistent with today's proposal.

The requirements that would now apply are included in 40 CFR parts 51 and 93. The EPA and the Department of Transportation issued guidance on May 14, 1999 and June 18, 1999, respectively, clarifying the requirements for transportation and air quality planning. These documents can be found in the docket.

When these requirements begin applying to an affected area, the area must have a current transportation plan and program that is consistent with the air quality implementation plan to receive Federal approval or funding for transportation projects. Ada County's transportation improvement program expired on January 8, 1999. Ada County does have an approved PM–10 State Implementation Plan (SIP) (61 FR 27019, May 30, 1996) which contains motor vehicle emissions budgets. To demonstrate that the requirements under section 176 are met, the transportation plan and program would need to be consistent with the budgets in the approved SIP prior to this proposal taking effect.

*New Source Review Requirements:* The NSR program which was linked to the CAA section 107 designation and classification that was in effect in Ada County (when EPA found that the pre-existing PM–10 standard no longer applied), will again apply under the approved SIP immediately upon rescission of that finding.

Idaho's SIP defines the term ''nonattainment area'' as simply any area designated as nonattainment under section 107(d) of the CAA. Therefore, EPA's previous designation of the Ada County area as nonattainment made it a nonattainment area for all purposes under Idaho's SIP rules. Therefore, Idaho's part D NSR rules that previously applied prior to March 12, 1999, the date of EPA's determination that the pre-existing PM–10 standards no longer applied, would again apply in Ada County to new and modified major sources of PM-10 automatically upon finalization of this action.

### *A. What Additional Planning Options Could the State of Idaho Pursue?*

An option which is always available under the Clean Air Act is for an area such as Ada County to apply for a redesignation to attainment. The requirements for redesignation are listed in section 107(d)(3) and EPA guidance. The essence of the redesignation requirements is that an area develop and adopt air quality plans which will be protective of public health for the long-term by ensuring the continued achievement of the air quality standard at issue, in this case PM–10.

The State of Idaho and Ada and Canyon County representatives have been working on a comprehensive multi-county air quality plan—the Treasure Valley Airshed Management Plan. EPA understands that the State is working to complete, implement, and submit the requirements listed in section 107(d)(3). In addition, the State and Ada County representatives are considering measures necessary to implement existing PM–10 control strategies and other measures necessary to ensure continued progress and no net increase in PM–10 emissions from transportation projects while any such plan is developed.

## IV. What Administrative Requirements Have We Considered in Writing Today's Proposed Rule?

### *A. Executive Order 12866: Regulatory Impact Analysis*

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

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

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

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

The Agency has determined that this proposed regulatory action is not significant. The OMB agrees and is exempting this proposed regulatory action from Executive Order 12866 review.

*B. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604), unless EPA certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. The EPA is proposing that this rule, in its final form, will not have a significant impact on a substantial number of small entities because the determination that the pre-existing PM–10 standards again apply in Ada County does not itself directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Instead, this rule merely establishes that the previous PM-10 standard again applies in Ada County. For the most part, any requirements applicable to small entities that may indirectly apply as a result of this action would be imposed independently by the State under its SIP, not by EPA through this action. Moreover, to the extent this rule would automatically trigger the applicability of certain SIP requirements to small entities (*e.g.*, NSR), this rule cannot itself be tailored to address small entities that would be subject to those requirements.

One requirement that may apply immediately upon this action in Ada County is the requirement under CAA section 176(c) and associated regulations to demonstrate conformity of Federal actions to SIPs. However, those rules only apply directly to Federal agencies and metropolitan planning organizations (MPOs), which by definition are designated only for metropolitan areas with populations of at least 50,000 and thus do not meet the definition of small entities under the RFA. Therefore, I certify that this action will not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

*C. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least-burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

Today's action, if finalized, would not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate or to the private sector. This rule would reinstate the applicability of the pre-existing PM–10 standards and the designation and classification status of Ada County. The consequences of this action may result in some additional costs within the affected area; however, the Agency believes that these costs would not exceed $100 million per year in the aggregate.

One mandate that may apply as a consequence of this action in Ada County is the requirement under CAA section 176(c) and associated regulations to demonstrate conformity of Federal actions to SIPs. These rules apply to Federal agencies and MPOs making conformity determinations. The EPA concludes that such conformity determinations will not cost $100 million or more in the aggregate annually. Finally, Idaho's part D NSR rules will apply again if we take final action on this proposal, however we don't believe the incremental costs of these rules compared with the prevention of significant deterioration (PSD) rules currently in place in Ada County, plus the costs of conformity determinations, would exceed $100 million or more in the aggregate in any 1 year.

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

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866, and it implements a previously promulgated health or safety-based Federal standard, and does not itself involve decisions that affect environmental health or safety risks.

*E. Executive Order 13132: Federalism*

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism

implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

The EPA concludes that this rule will not have substantial federalism implications, as specified in Section 6 of Executive Order 13132 (64 FR 43255, August 10, 1999), because, as noted previously, this rule would simply reinstate the applicability of the previous PM–10 standard and the associated air quality designation for Ada County and will not directly impose significant new requirements on Ada County, or substantially alter the relationship or the distribution of power and responsibilities between Idaho and the Federal government.

Although EPA has determined that Section 6 of Executive Order 13132 does not apply, EPA nonetheless consulted on numerous occasions with a broad range of State and local officials both prior to and in the course of developing this proposed rule. These included contacts with members and staffs of the State's congressional offices, representatives of the Governor, the State Attorney General's Office, the Department of Environmental Protection, and affected local metropolitan planning offices. During these discussions, concerns were raised by Idaho regarding the impact of reinstatement of the preexisting PM–10 standards on current planning endeavors, including transportation improvement programs. In this context, and in order to understand whether there might be potential alternative planning options, the State sought clarification from EPA on its view of the legal implications of the D.C. Circuit's American Trucking opinion. EPA's response to these queries is summarized in Section I of this notice. Additionally, EPA was able to assure the State that transportation programs undertaken prior to finalization of reinstatement of the standards and designation would not be affected by that action. Finally, although EPA could not resolve all of Idaho's concerns regarding the impact of this action on certain air quality planning initiatives, the Agency committed itself to work closely with the State, within the limits permitted by the requirements of the Clean Air Act, to minimize any unnecessary impacts.

*F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This proposed action does not involve or impose any requirements that directly affect Indian tribes. Under EPA's tribal authority rule, tribes are not required to implement CAA programs but, instead, have the opportunity to do so. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

*G. Paperwork Reduction Act*

This proposal does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

*H. Executive Order 12898: Environmental Justice*

Under Executive Order 12898, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. Today's proposed action reinstating the pre-existing PM–10 standard does not adversely affect minorities and low-income populations.

*I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this proposed action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

**List of Subjects**

*40 CFR Part 50*

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 2, 2000.

**Carol M. Browner,**

*Administrator.*

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

## PART 50—[AMENDED]

1. The authority citation for part 50 continues to read as follows:

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

### § 50.6 [Amended]

2. Section 50.6(d) is proposed to be removed.

## PART 52—[AMENDED]

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

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

### Subpart N—Idaho

### § 52.676 [Removed]

2. Section 52.676 is proposed to be removed.

## PART 81—[AMENDED]

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

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

2. In § 81.313, the entries for ''Ada County'' and ''Metropolitan Boise Intrastate AQCR 64'' in the table entitled ''Idaho PM–10'' are proposed to be revised to read as follows:

**§ 81.313 Idaho.**

* * * * *

IDAHO PM–10

| Designated area | Designation | | Classification | |
|---|---|---|---|---|
| | Date | Type | Date | Type |
| Ada County: | | | | |
| Boise | Effective date of final rule | Nonattainment | Effective date of final rule | Moderate |
| Northern Boundary-Beginning at a point in the center of the channel of the Boise River, where the line between sections 15 and 16 in Township 3 north (T3N), range 4 east (R4E), crosses said Boise River; thence, west down the center of the channel of the Boise River to a point opposite the mouth of More's Creek; thence, in a straight line north 44 degrees and 38 minutes west until the said line intersects the north line of T5N (12 Ter. Ses. 67); thence west to the northwest corner of T5N, R1W Western Boundary-Thence, south to the northwest corner of T3N, R1W; thence east to the northwest corner of section 4 of T3N, R1W; thence south to the southeast corner of section 32 of T2N, R1W; thence, west to the northwest corner of T1N, R1W; thence, south to the southwest corner of section 32 of T2N, R1W; thence, west to the northwest corner of T1N, R1W; thence south to the southwest corner of T1N, R1W Southern Boundary-Thence, east to the southwest corner of section 33 of T1N, R4E Eastern Boundary-Thence, north along the north and south center line of Townships T1N, R4E, T2N, R4E, and T3N, R4E, Boise Meridian to the beginning point in the center of the channel of the Boise River | | | | |
| * * * | * | * | * | * |
| Metropolitan Boise Intrastate AQCR 64 (Excluding Ada County Boise PM–10 nonattainment area) | 11/15/90 | Unclassifiable. | | |

* * * * *

[FR Doc. 00–14854 Filed 6–23–00; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 63

**[FRL–6721–7]**

**RIN 2060–AE41**

## National Emission Standards for Hazardous Air Pollutants for Source Categories: National Emission Standards for Primary Copper Smelters

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Supplement to proposed rule.

**SUMMARY:** This action proposes a change to the proposed national emission standards for hazardous air pollutants (NESHAP) for primary copper smelters. After our careful review and evaluation of comments received on the proposed rule and new emissions data obtained since the proposal of the rule, we conclude that a change to the proposed standards for the control of process emissions from smelting furnaces, slag cleaning vessels, and batch copper converters is warranted. Specifically, instead of the equipment standard specified in the original proposal, we are proposing a numerical emission standard that would limit the maximum concentration of total particulate matter in the off-gases discharged from these processes. This action also proposes a new requirement for smelters using baghouses that are required to use bag leak detector systems. On April 20, 1998 (63 FR 19592), the EPA proposed the NESHAP for Source Categories: National Emission Standards for Primary Copper Smelters. In that proposal the EPA estimated that nationwide HAP emissions from the ''Primary Copper Smelting'' source category was estimated to be approximately 189 Mg/yr (208 tpy). The EPA estimated in the same proposal that implementation of the NESHAP, as proposed, would reduce these nationwide HAP emissions by approximately 20 percent to 115 Mg/yr (171 tpy).

**DATES:** *Comments.* We are requesting comments only on this supplement to the proposed rule by August 25, 2000.

*Public Hearing.* If anyone contacts the EPA requesting to speak at a public hearing on or before July 17, 2000, a public hearing will be held on July 26, 2000 beginning at 10:00 a.m.

**ADDRESSES:** *Comments.* Comments on this supplement to the proposed rule should be submitted (in duplicate) to Docket No. A–96–22 at the following address: Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. We request that a separate copy of the comments also be sent to the contact person listed below in **FOR FURTHER INFORMATION CONTACT.**

### Docket

The docket for this rulemaking is Docket No. A–96–22 and is available for public inspection between 8 a.m. and

5:30 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street SW., Washington, DC 20460; telephone: (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eugene Crumpler, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711, telephone number (919) 541–0881, facsimile number (919) 541–5600, electronic mail address ''crumpler.gene@epa.gov''.

**SUPPLEMENTARY INFORMATION:**

### Regulated Entities

Entities potentially regulated by this action are primary copper smelters (SIC 3339). No Federal government entities nor State/local/tribal government entities would be regulated by final action on this supplemental proposal.

This description of the regulated entities is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by final action on this supplemental proposal. This description identifies the types of entities that we are now aware could potentially be regulated by final action on this supplemental proposal. To determine whether your facility is regulated by final action on this supplemental proposal, you should carefully examine the applicability criteria in the proposed rule (63 FR 19582, April 20, 1998). If you have any questions regarding the applicability of this action to a particular entity, consult the contact person listed in **FOR FURTHER INFORMATION CONTACT.**

### World Wide Web

An electronic copy of this document will also be available on the Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules (http://www.epa.gov/ttn/oarpg/). The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call (919) 541–5384.

### Docket

The supplemental proposal and other information related to the proposed rule are available for review in the docket. Copies of this information may be obtained by request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials The docket is intended to be an organized and complete file of the administrative records complied by us in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and regulated industries to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record for judicial review. (See CAA section 307(d)(7)(A).)

### Public Hearing

If anyone contacts us and requests to speak at a public hearing by July 17, 2000, a public hearing will be held at the U.S. EPA's Office of Administration Auditorium, 79 T.W. Alexander Drive, Research Triangle Park, North Carolina. Persons interested in attending the hearing or in making an oral presentation should notify Mrs. Mary Hinson, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5601.

### Electronic Filing

Electronic comments can be sent directly to U.S. EPA's Air and Radiation Docket and Information Center at: ''A-and-R-Docket@epamail.epa.gov.'' Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1, 6.1, or Corel 8 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (A–96–22). No ''Confidential Business Information'' should be submitted through electronic mail. Electronic comments may be filed online at many Federal Depository Libraries.

### Confidential Business Information

If you want to submit proprietary information for consideration, you should clearly distinguish such information from your other comments and clearly label it ''Confidential Business Information.'' To ensure that proprietary information is not inadvertently placed in the docket, comments containing such proprietary information should not be sent to the public docket but instead sent directly to Mr. Eugene Crumpler, Metals Group, Emission Standards Division, c/o OAQPS Document Control Officer, U.S. Environmental Protection Agency, 411 West Chapel Hill Street, Room 740B, Durham, NC 27701. Information covered by such claim of confidentiality will be disclosed by us only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by us, the submission may be made available to the public without further notice to the commenter.

### Outline

The information in this preamble is organized as follows.

I. Summary of Proposed Rule Change
II. Background to Supplemental Proposal
III. Selection of the Proposed Emission Standard
  A. Original Decision to Propose an Equipment Standard
  B. Public Comments on the Proposed Equipment Standard
  C. Why We Decided to Change to an Emission Standard
  D. Why We Selected Particulate Matter as a HAP Surrogate
  E. How We Selected the Numerical Limit for the Emission Standard
IV. Requirements for Alarm Limits on Baghouse Leak Detectors
V. Administrative Requirements
  A. Executive Order 12866, Regulatory Planning and Review
  B. Executive Order 13132, Federalism
  C. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments
  D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
  E. Unfunded Mandates Reform Act of 1995
  F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et. seq.
  G. Paperwork Reduction Act
  H. National Technology Transfer and Advancement Act

## I. Summary of Proposed Rule Change

We are proposing an emission standard to control the hazardous air pollutants (HAP) emissions from process off-gases discharged from smelting furnaces, slag cleaning vessels, and batch copper converters operated at primary copper smelters subject to the rule as proposed. This emission standard replaces the equipment standard we originally proposed for these sources. The emission standard would establish a numerical limit for the concentration of total particulate matter allowed to be emitted in the process off-gases discharged to the atmosphere from an affected source. We

are proposing that this concentration limit be set at 23 milligrams of total particulate matter per dry standard cubic meter (mg/dscm) (approximately 0.010 grains per dry standard cubic foot (gr/dscf)). Measurement of total particulate matter concentration would be performed using either EPA Method 5 or Method 29 in 40 CFR part 60, appendix A. The average value of the results from three test runs would be used to determine compliance with this numerical limit.

We are also proposing a requirement for the percentage of time that bag leak detectors installed on baghouses at primary copper smelters detect levels of particulate matter above a set point. A violation of the standard will occur when the percentage of time that the alarm on the detector is activated exceeds 5 percent of the operating time in any 6-month period.

## II. Background to Supplemental Proposal

Section 112 of the Clean Air Act (CAA) directs us to establish NESHAP to control emissions from major and area stationary sources. The source category of ''primary copper smelting'' is one of the approximately 170 categories selected for regulation under section 112 (57 FR 31576, 61 FR 28202). On April 20, 1998, we proposed the NESHAP for the primary copper smelting source category (63 FR 19582, April 20, 1998).

Following the proposal date, a 90-day comment period (April 20, 1998 to July 20, 1998) was provided to receive comments from the public. A copy of each comment letter that we received has been placed in the docket for this rulemaking (Docket No. A–96–22). Several commenters provided new information regarding operations at primary copper smelters that caused us to reconsider the equipment standard originally proposed for the control of smelter process off-gas streams discharged from smelting furnaces, slag cleaning vessels, and batch copper converters.

The supplement also proposes an operating standard that would limit the frequency and duration of baghouse leak detector alarms to 5 percent of the baghouse operating time during any 6-month period. This operating standard helps assure that baghouses are in continuous compliance with particulate matter standards. The standard will also assure that the owner or operator will properly operate and maintain the system by responding immediately to alarms and take corrective action.

Discussions on the purpose and bases of these proposed changes to the original proposal are contained in the following sections of this preamble.

## III. Selection of the Proposed Emission Standard

### *A. Original Decision To Propose an Equipment Standard*

Process HAP emissions are the HAP contained in the primary exhaust gas stream (*i.e.,* off-gases) discharged from a process unit or vessel. Process HAP emissions at primary copper smelters include metal HAP contained in the off-gases exhausted from flash smelting furnaces and from batch copper converters (when the converter vessels are positioned and operated in either the slag or copper blowing mode). At those smelters that perform an additional slag cleaning process step, a third source of metal HAP emissions is the off-gases exhausted from the slag cleaning vessels. All three of these process off-gas streams share a common characteristic. They all contain substantial quantities of sulfur dioxide ($SO_2$) at high concentrations ranging from 4 percent to as much as 80 percent for some smelting furnaces. At all existing smelters using these processes, the process off-gas streams are vented to by-product sulfuric acid plants for $SO_2$ control. These sulfuric acid plants were installed at the smelters to comply with Federal and State regulations limiting emissions of $SO_2$ to the atmosphere.

When we were developing the proposed NESHAP, we determined that the maximum achievable control technology (MACT) floor for controlling metal HAP emissions in the process off-gases vented from existing smelting furnaces, slag cleaning vessels, and batch copper converters is to vent these off-gases to a by-product sulfuric acid plant with its ancillary particulate matter pre-cleaning and conditioning systems (63 FR 19594). Recognizing that an emission standard is the preferred approach for standards established under section 112 of the CAA, we nevertheless proposed an equipment standard pursuant to section 112(h).

Our decision to propose an equipment standard was based on the inherent design and operation of the sulfuric acid plants used to treat the off-gases discharged from the smelting furnaces, slag cleaning vessels, and batch copper converters in order to comply with the existing, federally-enforceable $SO_2$ emission standards. By operating these plants, the smelters also achieve effective control of the metal HAP contained in the process off-gases discharged from the smelting and converting operations. Rigorous pre-cleaning and conditioning of these process off-gases to remove metals and other particulate matter upstream of the acid plant catalyst beds are mandatory to optimize the acid plant performance and to prevent expensive damage to the catalysts and other critical plant equipment. Consequently, the metal HAP concentrations in the tail gases exiting the sulfuric acid plants at primary copper smelters are controlled to very low, if not, trace levels. We concluded that compliance with the existing federally-enforceable $SO_2$ emission limits would ensure good metal HAP emission control for the $SO_2$ rich process off-gases discharged to the smelter's sulfuric acid plant. Therefore, we proposed an equipment standard for the primary copper smelter NESHAP that would require that the process off-gases from smelting furnaces, slag cleaning vessels, and batch copper converters be discharged through a by-product sulfuric acid plant (or other type of sulfur recovery process unit that requires comparable levels of gas stream pre-cleaning and conditioning to remove particulate matter). No numerical emission limits for either individual HAP metals or particulate matter were proposed.

### *B. Public Comments on the Proposed Equipment Standard*

One commenter disagreed with our decision to propose an equipment standard instead of an emission standard for control of metal HAP emissions from smelting furnaces, slag cleaning vessels, and batch copper converters at the affected primary copper smelters. The commenter argued that we are required by the CAA to establish an emission standard for these sources unless it can be demonstrated that prescribing and enforcing a numerical limit is not feasible. In the case of the proposed NESHAP for primary copper smelters, the commenter stated that we provided no documentation to support a determination that it is not feasible to prescribe a numerical limit for the metal HAP emissions from sulfuric acid plants operated at primary copper smelters.

### *C. Why We Decided To Change to an Emission Standard*

Since proposal, we have learned that source tests using EPA reference test methods have been routinely performed at primary copper smelters to measure the content of total particulate matter and individual HAP metal constituents in the tail gas streams vented from the sulfuric acid plants operating at these smelters. After our careful review and evaluation of the comments received on the proposed equipment standard and

the newly obtained source test data, we have now changed our opinion regarding the application of a numerical emission limit to these sources.

We have compiled a data base that includes metal HAP and total particulate matter emission data from source tests of the sulfuric acid plants operated at four of the six primary copper smelters using batch copper converters. Many source tests have been conducted at primary copper smelters since 1996 to measure the concentrations of total particulate matter and individual metal HAP in the tail gases exiting the smelter sulfuric acid plants. The majority of these tests were performed using EPA reference test methods.

At two smelters, source tests were repeated on a monthly basis for a 3-year period. The demonstrated capability of the smelter owners and operators to conduct these source tests clearly supports a conclusion that this type of source testing is not only feasible but is practical and not overly burdensome to perform. Furthermore, given the data base that has been compiled using the source test results, we now conclude that a numerical emission limit on the tail gases exiting the sulfuric acid plants operated at primary copper smelters can readily be prescribed and effectively enforced.

*D. Why We Selected Particulate Matter as a HAP Surrogate*

The HAP emissions from primary copper smelters originate primarily from metal impurities (*e.g.*, arsenic, lead, cadmium, antimony, and other heavy metal species that have been listed as HAP) that naturally occur in copper ore concentrates. During the smelting process of the copper ore concentrates and the subsequent converting process to produce blister copper, these HAP metal species either are eliminated in the molten slag tapped from the process vessels or are vaporized and discharged in the process vessel off-gases. Upon cooling of the process off-gases, the volatilized HAP metal species condense, form aerosols, and behave as particulate matter.

The composition and amounts of metal HAP in the copper ore concentrates can vary from one smelter to another as well as over time at individual smelters depending on the ore deposit from which the copper ore concentrate is derived. This inherent variability and unpredictability of the metal HAP compositions and amounts in copper ore concentrates have a material effect on the composition and amount of HAP metals in the process off-gas emissions. As a result, prescribing individual numerical emission limits for each HAP metal species (*e.g.*, a specific emission limit for arsenic, a specific emission limit for lead, etc.) is difficult, if not impossible, to do.

Given that prescribing individual numerical emission limits for HAP metal is not a practicable approach in this case, an alternative approach is to use total particulate matter as a surrogate pollutant for the metal HAP emitted from primary copper smelters. An emission characteristic common to all primary copper smelters and similar source categories is the fact that the metal HAP are a component of the particulate matter contained in the process off-gases discharged from smelting and converting operations. Strong direct correlations exist between the emissions of total particulate matter and metal HAP compounds. Emission limits established to achieve good control of total particulate matter will also achieve good control of metal HAP. Adopting particulate matter as a surrogate pollutant for these sources provides the added benefit of consistency with the format and test procedures we are using for the other primary copper smelter sources for which we have proposed numerical emission limits (*i.e.*, specifically the proposed numerical emission limit standards for exhaust gas streams from copper concentrate dryers and for captured process fugitive gas streams from smelting and converting vessels).

*E. How We Selected the Numerical Limit for the Emission Standard*

We prepared a data base from which we could select a numerical limit for total particulate matter contained in the tail gases exiting the sulfuric acid plants operated at primary copper smelters. This data base is derived from the results of field source tests performed between 1996 and 1999 by the primary copper smelter companies using EPA test methods. Most of the tests included in our data base were performed using EPA Method 29 (in appendix A to 40 CFR part 60) which can measure both particulate matter and individual metal emissions from stationary sources. The remaining tests were performed using EPA Method 5 (also in appendix A to 40 CFR part 60) which is used to measure particulate matter emissions from stationary sources. The test protocol for these EPA methods requires that three test runs be completed to be considered a valid compliance test.

The data base includes results for particulate matter emissions from the sulfuric acid plants operated at four of the six primary copper smelters that would potentially be subject to this supplemental proposal. All the tested sulfuric acid plants are double-contact plant designs with sulfuric acid production capacities ranging from approximately 2,200 to 4,000 tons per day. One of the smelters tested operates two sulfuric acid plants, and the data base includes test results for both plants. The two other smelters for which we do not have source test results also operate double-contact sulfuric acid plants. The design and sulfuric acid production capacities of the sulfuric acid plants for which we do not have data are similar to the five plants included in the data base. A summary of results for each of the individual source tests included in the data base is available in the docket for this rulemaking (Docket A–96–22).

For one smelter located in Arizona, the company provided us with the results from six additional source tests for their facility's sulfuric acid plant conducted using the Arizona Method A1. This is a test method adopted by the State of Arizona for measuring total particulate matter emissions in gas streams containing sulfur. Arizona Method A1 uses a different protocol than EPA Methods 5 and 29. The temperature specified by Arizona Method A1 for the sample collection filter is in the range of 350°F versus 250°F for EPA Methods 5 and 29. At the filter temperature used for the EPA methods, sulfuric acid mist and waters of hydration are condensed and counted as part of the total particulate catch on the filter. Sulfuric acid mist and waters of hydration do not condense at the higher filter temperature used for Arizona Method A1 and pass through the filter (*i.e.,* do not collect on the filter). Consequently, for a given sulfuric acid plant tail gas stream, a total particulate matter concentration value measured on the filter using Arizona Method A1 will be lower than the concentration value measured on the filter using either EPA Method 5 or 29. The test results obtained using Arizona Method A1 cannot be directly compared to the test results obtained using the EPA test methods. Therefore, we decided not to mix incompatible test results in our data base, and we included only those individual source tests conducted using EPA Methods 5 or 29.

In addition, we excluded from further consideration in our selection of a numerical emission limit the results of three source tests that were obtained from the smelter companies. Although these tests were conducted using EPA test methods, our review of the tests showed that the documentation of the

test results was either incomplete or that the test was not conducted under normal representative operating conditions. The first test reported results for only two test runs; this is fewer than the minimum number of three runs required by EPA test method protocol to be a valid compliance test. A second test was excluded because the smelter company reported to us that, based on the results of that test, the sulfuric acid plant was subsequently shut down to make repairs to catalyst beds. We do not consider this test to be representative of normal sulfuric acid plant performance at the smelter. Our review of the third test shows that there exists a substantial inconsistency in the measured particulate matter concentrations between the first test run as compared to the second and third runs conducted on the same day. An extraordinarily large value of 0.075 gr/dscf was reported for the first run versus more credible values of 0.004 and 0.005 gr/dscf reported for the second and third runs, respectively. These results clearly indicate that the first run result is an outlier due to either a sampling or analytical error. We have, therefore, decided to exclude the results for that source test from further consideration.

Our data base for selecting the numerical limit for the emission standard is comprised of a total of 78 particulate matter concentration values. Each of these values represents the total particulate matter concentration in the tail gas stream exiting the sulfuric acid plant and is calculated by averaging the results for the three individual test runs conducted for a given source test. These 3-run averages range from 0.001 gr/dscf to 0.015 gr/dscf of total particulate matter emitted in the sulfuric acid plant tail gas streams. All but two of these 3-run averages are less than 0.010 gr/dscf (one facility reported a 3-run average value of 0.011 gr/dscf, and another a 3-run average value of 0.015 gr/dscf). For each of the five sulfuric acid plants represented in our data base, we also computed the overall average total particulate matter concentration from all of the 3-run averages included in our data base for a given sulfuric acid plant. These overall average particulate concentration values are presented in the following Table 1. (Note that sulfuric acid plants A and B are located at the same primary copper smelter.) Also shown are the number of 3-run tests used to compute the overall average for each sulfuric acid plant.

TABLE 1.—PARTICULATE MATTER EMISSIONS FROM SULFURIC ACID PLANTS AT PRIMARY COPPER SMELTERS

| Sulfuric acid plant | Overall average total particulate matter concentration | Number of source tests averaged |
|---|---|---|
| A ..... | 0.004 gr/dscf | 34 |
| B ..... | 0.004 gr/dscf | 38 |
| C ..... | 0.007 gr/dscf | 1 |
| D ..... | 0.008 gr/dscf | 2 |
| E ..... | 0.010 gr/dscf | 3 |

A review of the five sulfuric plant designs supports a finding that all of the plants provide a comparable level of particulate matter pre-cleaning. Each process off-gas stream from the smelting and converting operations passes through a series of particulate control devices before the gases enter the sulfuric acid plant catalyst beds. For most of the process gas streams, the particulate matter cleaning sequence begins with an electrostatic precipitator (ESP), followed by a wet scrubber system, and finally a wet ESP and mist eliminator. Variations of this sequence are used for a few of the process off-gas streams. For example, at one smelter, the smelting furnace off-gases pass through two separate wet scrubbing systems before entering the wet ESP. However, regardless of the specific design configuration used for pre-cleaning the process off-gases, all of the process off-gasses pass through a series of either ESP or wet scrubber control devices and then a wet ESP before the gas stream enters the catalyst bed. Therefore, we conclude that all five sulfuric acid plants represent the MACT floor level of control, and that the variation of the particulate matter concentrations reported in the data base for the tail gases exiting from these plants reflect normal and unavoidable variability.

Given the above finding and our evaluation of the available test results, we are proposing 0.010 gr/dscf as the numerical limit for total particulate matter contained in the tail gases exiting the sulfuric acid plants operated at primary copper smelters. In our judgment, this value reflects a level of total particulate matter emissions that can be achieved consistently by a properly operated and maintained sulfuric acid plant used to control process off-gases from primary copper smelting and converting operations. Converting the value of 0.010 gr/dscf to the equivalent metric units, the numerical emission limit we are proposing for the concentration of total particulate matter allowed to be emitted in the process off-gases discharged to the atmosphere from smelting furnaces, slag cleaning vessels, and batch copper converters is 23 mg/dscm.

## IV. Requirements for Alarm Limits on Baghouse Leak Detector Alarms

Today's action also proposes additional requirements for owners or operators of baghouses with bag leak detection systems. This supplement to the proposed rule would enhance the requirements regarding bag leak detection systems in § 63.1452 of the proposed rule to include an enforceable operating limit, such that the owner or operator would be in violation of the standards operating limit if the alarm on a bag leak detection system sounds for more than 5 percent of the total operating time in each 6-month reporting period. This supplementary proposal also specifies that each time the alarm sounds and the owner or operator initiates corrective actions within 1 hour of the alarm, 1 hour of alarm time would be counted. If the owner or operator takes longer than 1 hour to initiate corrective actions, the EPA proposes that alarm time would be counted as the actual amount of time taken by the owner or operator to initiate corrective actions. If inspection of the baghouse system demonstrates that no corrective actions are necessary, no alarm time would be counted. This supplementary proposal also proposes that owners and operators be required to continuously record the output from a bag leak detection system and to maintain these records as specified in § 63.10 of the general provisions.

By requiring sources controlled by baghouses to continuously monitor their compliance with specific control devices, and by making deviations from such operating parameters for more than 5 percent of the total operating time in each 6-month reporting period a violation of the operating limit, the monitoring requirements help assure continuous compliance with the emission limits through continuous emissions reductions. Likewise, the continuous monitoring of the baghouse using a bag leak detection system, and the enforceable 5 percent threshold level, will help ensure that the baghouse is being operated and maintained properly and thereby helps assure continuous compliance with the emission limit through continuous emissions reductions. The EPA is proposing the requirement to continuously record bag leak detection system output to ensure that data necessary to assess compliance with the newly proposed operating limit for bag

leak detection system alarms would be available. In the absence of such information, enforcement personnel would be unable to determine whether the operating limit is being met. The output records would also provide data necessary to assess the magnitude of the output level above the alarm set point, and would assist owners and operators in properly operating and maintaining the baghouse and in diagnosing baghouse upsets. As proposed, an alarm simply indicates that the set point was exceeded, but it does not relate to the deviation or magnitude of the output level above the set point.

## V. Administrative Requirements

### *A. Executive Order 12866, Regulatory Planning and Review*

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

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

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

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation 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.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

### *B. Executive Order 13132, Federalism*

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

Under Section 6 of Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This supplement to the proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. No State or local governments own or operate primary copper smelters. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

### *C. Executive Order 13084, Consultation and Coordination With Indian Tribal Governments*

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' This supplement to the proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate primary copper smelters. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

### *D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This supplement to the proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

### *E. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local,

and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this supplement to the proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the requirements by this supplement to the proposed for any year has been estimated to be less than $50,000. Thus, today's supplement to the proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this supplement to the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's supplement to the proposed rule is not subject to the requirements of section 203 of the UMRA.

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

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

For purposes of assessing the impacts of today's supplemental proposal on small entities, small entity is defined as: (1) A small business that is a business having less than 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's supplement to the proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This supplement to the proposed rule will not impose any requirements on small entities. No small businesses, small government jurisdictions, nor small organizations own or operate primary copper smelters potentially subject to the proposed rule.

*G. Paperwork Reduction Act*

The EPA submitted an Information Collection Request (ICR)(EPA ICR No. 1850.01) for the proposed rule to OMB for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* That ICR has been revised to add the estimated burden for the emission standard proposed by this supplement to the proposal. No other changes were made to the burden estimates presented in ICR 1850.01. The revised ICR document for the supplemental proposal will be submitted to OMB (EPA ICR No. 1850.02). Public and OMB comments made previously on ICR 1850.01 have not been addressed to date and are not reflected in this revision. All comments, new and old, will be addressed in the ICR for the final rule. A copy of this revised ICR document may be obtained from Sandy Farmer by mail at the Office of Environmental Information, U.S. Environmental Protection Agency, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information requirements for the proposed rule are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The emission standard proposed by this supplement to the proposal would not require any notifications or reports beyond those required by the General Provisions for performance testing under 40 CFR 63.7. The recordkeeping requirements require only the specific information needed to determine compliance with the proposed emission standard by performance testing. Adding the burden estimates for the performance testing required by the supplement to the proposed rule, the revised total annual monitoring, reporting, and recordkeeping burden for the rule (averaged over the first 3 years after the effective date of the rule) is estimated to be 11,980 labor hours per year at a total annual cost of $624,000. This estimate includes a one-time performance test and report (with repeat tests where needed); one-time submission of a startup, shutdown, and malfunction plan with semi-annual reports for any event when the procedures in the plan were not followed; semi-annual excess emission reports; maintenance inspections; notifications; and recordkeeping. Total capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR are estimated at $156,000, with operation and maintenance costs of $72,000/yr.

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

search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments on the estimated burden for the emission standard proposed by this supplement to the proposal are requested on the EPA's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques. Send comments on the ICR to the Director, Regulatory Information Division, U.S. Environmental Protection Agency (2137), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, marked ''Attention: Desk Office for EPA.'' Include the ICR number in any correspondence. Because the OMB is required to make a decision concerning the ICR between 30 and 60 days after June 26, 2000, comment to OMB is best assured of having its full effect if OMB receives it by July 26, 2000. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

*H. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* material specifications, test method, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like the EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

In developing this supplement to the proposal, the EPA searched for voluntary consensus standards that might be applicable. The search has identified no applicable voluntary standards. Accordingly, the NTTAA requirement to use applicable voluntary consensus standards does not apply to this rule.

**List of Subjects in 40 CFR Part 63**

Environmental protection, Administrative practice and procedure, Air pollution control, Copper, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 19, 2000.

**Carol M. Browner,**

*Administrator.*

For the reasons set out in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations, as proposed to be amended at 63 FR 19602 on April 20, 1998, is proposed to be further amended as follows:

## PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

## Subpart QQQ—National Emission Standards for Hazardous Air Pollutants From Primary Copper Smelters

2. Section 63.1444 is amended by revising paragraph (b) to read as follows:

**§ 63.1444 Standards: Smelting vessels.**

* * * * *

(b) The owner or operator shall not discharge nor cause to be discharged to the atmosphere any off-gases from the smelting vessel that contain total particulate matter greater than 23 milligrams per dry standard cubic meter (mg/dscm) as determined by an emission test conducted in accordance with the applicable requirements of § 63.1451. Off-gases from the smelting vessel are generated when copper ore concentrate and fluxes are being smelted to form copper matte and slag.

* * * * *

3. Section 63.1445 is amended by revising paragraph (b)(1) to read as follows:

**§ 63.1445 Standards: Slag cleaning vessels.**

* * * * *

(b) * * *

(1) The owner or operator shall not discharge nor cause to be discharged to the atmosphere any off-gases from the slag cleaning vessel that contain total particulate matter greater than 23 milligrams per dry standard cubic meter (mg/dscm) as determined by a performance test conducted in accordance with the applicable requirements of § 63.1451. Off-gases from the slag cleaning vessel are generated when molten copper-bearing material is processed to separate this material into molten copper matte and slag layers

* * * * *

4. Section 63.1446 is amended by revising paragraphs (b)(1)(iii)(A), (b)(2)(ii), and (c)(3)(i) to read as follows:

**§ 63.1446 Standards: Copper converters.**

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(A) The owner or operator shall not discharge nor cause to be discharged to the atmosphere any primary hood exhaust stream that contains total particulate matter greater than 23 milligrams per dry standard cubic meter (mg/dscm) as determined by a performance test conducted in accordance with the applicable requirements of § 63.1451.

* * * * *

(2) * * *

(ii) The owner or operator shall not discharge nor cause to be discharged to the atmosphere any side flue exhaust stream that contains total particulate matter greater than 23 milligrams per dry standard cubic meter (mg/dscm) as determined by a performance test conducted in accordance with the applicable requirements of § 63.1451.

* * * * *

(c) * * *

(3) * * *

(i) The owner or operator shall not discharge nor cause to be discharged to the atmosphere any side flue exhaust stream that contains total particulate matter greater than 23 milligrams per dry standard cubic meter (mg/dscm) as determined by a performance test conducted in accordance with the applicable requirements of § 63.1451.

* * * * *

5. Section 63.1452 is amended by adding a new paragraph (d)(5)(iii) to read as follows:

**§ 63.1452 Inspection and monitoring requirements.**

* * * * *

(d) * * *

(5) * * *

(iii) (A) The owner or operator shall operate and maintain the baghouse so

that the alarm on the bag leak detection system does not sound for more than 5 percent of the total operating time in each 6-month reporting period. Each time the alarm sounds and the owner or operator initiates corrective actions within 1 hour of the alarm, 1 hour of alarm time will be counted. If the owner or operator takes longer than 1 hour to initiate corrective actions, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate corrective actions. If inspection of the baghouse system demonstrates that no corrective actions are necessary, no alarm time will be counted.

(B) The owner or operator shall continuously record the output from the bag leak detection system.

* * * * *

[FR Doc. 00–15915 Filed 6–23–00; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Parts 3130 and 3160

**[WO–310–1310–03–2410]**

**RIN 1004–AD13**

### National Petroleum Reserve, Alaska—Unitization

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Proposed rule; notice of extension of public comment period.

**SUMMARY:** The Bureau of Land Management (BLM) hereby gives notice that it is extending the public comment period on a Notice of Proposed Rule, which was published in the **Federal Register** on April 26, 2000 (54 FR 24542). The comment period for the proposed rule expires on June 26, 2000. The proposed rule would add a new subpart to BLM's oil and gas regulations implementing new statutory authority allowing operators to enter into unit agreements in the National Petroleum Reserve, Alaska (NPRA). Units allow for the sharing of costs and spreading of revenues among several leases, and allow for production from unit leases to occur without regard to lease or property boundaries. The rule would also allow for waiver, suspension, or reduction of rental or royalty for NPRA leases; allow for suspension of operations and production for NPRA leases; amend existing regulatory language to set the primary lease term for an NPRA lease at 10 years. Current regulations allow 10 years, or a shorter term if it is in the notice of sale; and add a new subpart to the NPRA regulations on subsurface storage agreements. Subsurface storage agreements allow operators to store gas in existing geologic structures on Federal lands.

This proposal would also make it clear that existing suspension regulations would not apply to the NPRA. In response to requests from the public, BLM is extending the comment period to August 10, 2000.

**DATES:** Submit comments by August 10, 2000.

**ADDRESSES:** Mail: Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, DC 20240. Personal or messenger delivery: Room 401, 1620 L Street, NW, Washington, DC 20036. Internet e-mail: WOComment@blm.gov. (Include ''Attn: AD13'').

**FOR FURTHER INFORMATION CONTACT:** Erick Kaarlela of BLM's Fluid Minerals Group at (202) 452–0340 or Ian Senio of BLM's Regulatory Affairs Group at (202) 452–5049.

**SUPPLEMENTARY INFORMATION:** If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Director (630), Bureau of Land Management, Room 401 LS, 1849 C Street, NW, Washington, DC 20240. You may deliver comments to Room 401, 1620 L Street, NW, Washington, DC 20036. You may also comment via the Internet to WOComment@blm.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: AD13'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact us directly at (202) 452–5030. Please make your written comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**). Comments, including names and street addresses of respondents, will be available for public review at the address listed under ''**ADDRESSES:** Personal or messenger delivery'' during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: June 20, 2000.

**Michael Schwartz,**

*Group Manager, Regulatory Affairs Group.*

[FR Doc. 00–15959 Filed 6–23–00; 8:45 am]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 46 CFR Parts 110 and 111

**[USCG–1999–6096]**

**RIN 2115–AF89**

### Marine Shipboard Electrical Cable Standards; Correction

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of public meeting and reopening of comment period; correction.

**SUMMARY:** This document corrects the notice of public meeting and reopening of comment period as published on June 5, 2000. In that document, the docket number was incorrectly published as USCG–2000–6096. The correct docket number is USCG–1999–6096.

**FOR FURTHER INFORMATION CONTACT:** For questions on the public meeting, call Dolores Mercier, Project Manager, Office of Design and Engineering Standards (G–MSE), Coast Guard, telephone 202–267–0658, fax 202–267–4816, e-mail *dmercier@comdt.uscg.mil.* For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, phone 202–366–9329.

**SUPPLEMENTARY INFORMATION:**

#### Background

On June 5, 2000, the Coast Guard published a notice of public meeting and reopening of comment period (65 FR 35600). The docket number was incorrectly published. Please submit your comments to USCG–1999–6096, the correct docket number.

Dated: June 14, 2000.

**Howard L. Hime,**

*Acting Director of Standards.*

[FR Doc. 00–15942 Filed 6–23–00; 8:45 am]

**BILLING CODE 4910–15–U**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 61, and 69

**[CC Docket Nos. 96–262 and 97–146; DA 00–1268]**

### Commission Asks Parties To Update and Refresh Record on Mandatory Detariffing of CLEC Interstate Access Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule: comments requested.

**SUMMARY:** The Federal Communications Commission (Commission) sought comment in two rulemaking dockets, the Access Charge Reform rulemaking docket and the Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers (*CLEC Detariffing*) rulemaking docket, regarding the regulatory or market-based approaches that would ensure that competitive local exchange carrier (CLEC) rates for interstate access are reasonable. Among the proposals discussed in these proceedings, the Commission invited interested parties to comment on whether mandatory detariffing of CLEC interstate access service rates would provide a market-based deterrent to excessive terminating access charges. As indicated in this Notice, interested parties may file comments and reply comments to update and refresh the records of these proceedings regarding mandatory detariffing of CLEC interstate access services.

**DATES:** Submit comments on or before July 12, 2000. Submit reply comments on or before July 24, 2000.

**ADDRESSES:** Submit electronic comments and other data to *http://www.fcc.gov/e-file/ecfs.html. See* Supplementary Information for file formats and other information about electronic filing. Submit paper copies to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission 445—12th Street S.W., TW–A325, Washington, D.C. 20554. *See* Supplementary Information for information on additional instructions for filing paper copies.

**FOR FURTHER INFORMATION CONTACT:** Joi Roberson Nolen, 202–418–1537.

**SUPPLEMENTARY INFORMATION:** On April 28, 2000, the court of appeals upheld the Commission's 1996 order requiring detariffing for interstate, domestic, interexchange services of nondominant interexchange carriers. *See MCI WorldCom* v. *FCC,* 209 F.3d 760 (D.C. Cir. 2000); *Policy and Rules Concerning the Interstate, Interexchange Marketplace,* CC Docket No. 96–61, Second Report and Order, 61 FR 59340 (November 2, 1996) (*IXC Detariffing Order*). On May 1, 2000, the court lifted the stay of the *IXC Detariffing Order* and the rules adopted in the order became effective. *See MCI WorldCom* v. *FCC,* No. 96–1459, slip op. (D.C. Cir., May 1, 2000). In light of the court's ruling, in this Notice, we invite parties to update and refresh the record regarding mandatory detariffing of CLEC interstate access services.

Specifically, commenters should discuss whether and, if so, how mandatory detariffing: (1) Addresses any market failure to constrain terminating access rates; (2) provides a market-based solution to excessive terminating charges by encouraging parties to negotiate terminating access charges; (3) provides the same benefits identified in the *CLEC Detariffing* rulemaking proceeding for permissive detariffing; (4) offers additional public interest benefits beyond permissive detariffing; (5) precludes the use of the filed rate doctrine to nullify contractual arrangements; (6) reduces the administrative burden on the Commission of maintaining tariffs; and (7) reduces the economic burden on the non-ILECs of filing tariffs.

This matter shall be treated as a ''permit but disclose'' proceeding in accordance with the Commission's *ex parte* rules. *See* 47 CFR 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

*Regulatory Flexibility Analysis and Paperwork Reduction Analysis.* The Notice of Proposed Rulemaking in the *CLEC Detariffing* rulemaking docket and both the Notice of Proposed Rulemaking and the Further Notice of Proposed Rulemaking in the *Access Charge Reform* rulemaking docket contained Initial Regulatory Flexibility Analyses (IRFA) as required by the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 603; *see also* 5 U.S.C. 601 *et seq.*, as amended by the Contract with America Advancement Act of 1996, Public Law 104–121, 110 Stat. 8747 (1996)(CWAA). *See Access Charge Reform,* CC Docket No. 96–262, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, 62 FR 4670 (January 31, 1997); *Access Charge Reform,* CC Docket No. 96–262, Fifth Report and Order and Further Notice of Proposed Rulemaking, 64 FR 51280 (September 22, 1999)); Hyperion Telecommunications, Inc. and Time Warner Petitions for Forbearance, Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers, CC Docket No. 97–146, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 62 FR 38244, June 19, 1997 (collectively, *NPRMs*). In addition, the *NPRMs* also invited the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in the *NPRMs,* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Because this Notice does not set forth substitute rules for, or changes to, those contained in the *NPRMs,* the initial IRFAs therefore are not revised nor do we now solicit additional comments on the information collections contained in the *NPRMs.*

*Legal Basis.* The proposed action is supported by Sections 4(i), 4(j), 201–205, 251, 252, 253 and 403.

*Filing Comments.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before July 12, 2000. Interested parties may file reply comments on or before July 24, 2000. Comments may be filed using the Commission's Electronic Comment Filing system (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 64 FR 24121 (May 1, 1998). Comments filed through ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-file/ecfs.html. Commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties also may submit an electronic comment by Internet e-mail. To get filing instructions for e-mail

comments, commenters should send an e-mail message to ecfs@fcc.gov and include ''get form <your e-mail address>'' in the body of the message. A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445—12th Street, S.W., TW–A325, Washington, D.C. 20554. In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231—20th Street, N.W., Washington, D.C. 20036, and one copy with the Chief, Competitive Pricing Division, 445—12th Street, S.W., TW—A225, Washington, D.C. 20554.

**List of Subjects**

*47 CFR Part 1*

Administrative practice and procedure, Communications common carriers, Telecommunications.

*47 CFR Part 61*

Access Charges, Communications common carriers, Telephone.

*47 CFR Part 69*

Communications common carriers, Telephone.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00–16166 Filed 6–23–00; 8:45 am]

**BILLING CODE 6712–01–U**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 224

**[Docket No. 000225052–005201; I.D. 102599C]**

**RIN 0648–AN29**

## Regulations Governing the Approach to Humpback Whales in Alaska

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to prohibit the approach within 200 yards (182.8 m) of a humpback whale, *Megaptera novaeangliae*, in waters within 200 nautical miles (370.4 km) of the coast of Alaska. Under these regulations, it would be unlawful for a person subject to the jurisdiction of the United States to approach, by any means, within 200 yards (182.8 m) of a humpback whale. This action is necessary to minimize disturbance to humpback whales in waters off Alaska. It is intended to promote conservation and recovery of humpback whales.

**DATES:** Comments must be submitted by August 10, 2000.

**ADDRESSES:** Mike Payne, Assistant Regional Administrator, Protected Resources Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, Alaska 99802–1668. Comments also may be sent via facsimile (fax) to 907/586–7012. Comments will not be accepted if sent via email or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 461, Juneau, AK 99801.

**FOR FURTHER INFORMATION CONTACT:** Kaja Brix, NMFS Alaska Region, 907/586–7235, or Jeannie Drevenak, Permits Division, NMFS Office of Protected Resources, 301/713–2289.

**SUPPLEMENTARY INFORMATION:**

### Species Description

The humpback whale, *Megaptera novaeangliae*, is a highly migratory species that is found in all oceans of the world. Humpback whales, listed as endangered under the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.* (ESA), are baleen whales belonging to the family Balaenopteridae. Humpback whales frequenting the North Pacific basin spend the winter months in the warmer tropical waters off Hawaii, Mexico and southern Japan. The summer feeding range of these animals extends along coastal inland waters of British Columbia, southeast Alaska, through western Alaska to Russia, and as far north as the Bering Sea.

Humpback whales in the North Pacific have been divided into three stocks: (1) the California/Oregon/Washington and Mexico stock; (2) the Central North Pacific stock; and (3) the Western North Pacific stock (NMFS 1999; Calambokidis et al. 1997). The Central and Western North Pacific stocks feed during summer months in the waters of coastal Alaska. The Central North Pacific stock of humpback whales winters in Hawaiian waters and migrates to feeding grounds in the summer months in northern British Columbia/Southeast Alaska and Prince William Sound west to Kodiak (NMFS 1998, 1999). The Western North Pacific stock winters in the waters off Japan and likely spends summer months feeding in coastal Alaska waters west of the Kodiak Archipelago (NMFS 1998).

Prior to commercial whaling the worldwide population of humpback whales was thought to have been in excess of 125,000 animals (NMFS 1991). Approximately 15,000 animals were believed to have been present in the North Pacific prior to 1905. Humpback whales were heavily hunted until the International Whaling Commission banned commercial harvest in 1966 (Rice 1978). As a result of commercial whaling the North Pacific population may have been reduced to as low as 1,000 animals (Rice 1978). Recent population estimates indicate that the numbers are greater than immediately post-harvest, but have not yet reached the level estimated for the time period prior to intensive whaling. The current annual abundance estimate for the North Pacific population is 6,010 animals (Calambokidis, et al 1997). The abundance of the Central North Pacific stock is estimated to be 4,005 animals (Straley 1994, NMFS 1998).

Annual abundance estimates have also been calculated for feeding aggregations of the Central North Pacific stock of humpback whales in specific locations off Alaska (NMFS 1998). The estimate for Prince William Sound is less than 200 animals; for southeast Alaska, 404 animals; and for the Kodiak Island region, 651 whales. These estimates represent minimum estimates for the three known feeding areas because the study areas do not include the entire geographic region. Little is known regarding humpback whale abundance between feeding areas, for example, south of Chatham Strait and west of Kodiak Island.

An extensive data set exists on the seasonal movements and distribution of humpback whales in the North Pacific, primarily for the Central North Pacific stock. The Western North Pacific stock is not as well studied, due primarily to the remote locations in which these animals range. Humpback whales generally spend the period between early spring to late fall in localized coastal areas engaged in intensive feeding activity.

Humpback whales congregate in the waters of their summer range in distinct feeding aggregations (Baker et al, 1987, 1990 in Baker, et al, 1992), with the same whales returning repeatedly to localized feeding areas. The identified feeding areas in Alaska for the Central North Pacific stock are southeast Alaska, Prince William Sound and Kodiak Island. Interchange among feeding areas has been at very low rates, usually involving just a few individuals

(Calambokidis, et al 1997). Site-fidelity of feeding humpback whales appears to be maternally directed and is likely a learned event. Mothers may bring their calves to a unique feeding site and the calves, once weaned, return to these same areas. Calves have been documented to return to the same feeding sites as adults and with their own offspring (Straley 1984).

Humpback whales feed singly or in groups using several different feeding strategies to capture their prey. Some of the common feeding behaviors in southeast Alaska include ''browsing'' conducted by individual animals; non-synchronized diving behavior; ''lunge'' feeding; and bubble-net feeding. Lunge feeding is a cooperative feeding behavior employed by a loosely assembled group of animals. The whales also use a technique referred to as ''bubble net'' feeding that involves the animal diving near an aggregation of prey, releasing bubbles to concentrate (i.e., herd) the prey and surfacing through the bubbles to capture the prey.

Humpbacks feed mainly on small schooling fishes, such as herring, walleye pollock, capelin and sandlance, and large zooplankton, such as krill (Wing and Krieger 1983, Krieger and Wing 1986, Krieger 1988). The productive temperate waters off Alaska have historically contained large numbers of herring schools and krill patches in inland coastal waters in predictable locations. Humpback whales, although not limited to these areas, return to specific feeding locations such as Frederick Sound, Chatham Strait, North Pass, Sitka Sound, Glacier Bay, and Prince William Sound, as well as other coastal areas of similar prey concentrations.

**Whale Watching Activity in Alaska**

The predictable nature of summer distributions of feeding North Pacific humpback whales provides the opportunity for whale watching activity in Alaska waters. Humpback whale prey appear to concentrate consistently and the intensive feeding behavior of the whales results in animals remaining in relatively defined areas over long periods of time. These feeding locations are often areas easily accessible from coastal communities. This combination of factors has recently led to extensive development of the whale watch industry.

Dedicated wildlife excursions in Alaska waters include both day trips that originate out of specific coastal communities in southeast and south central Alaska, and overnight package tours. The coastal hubs of this industry are, principally, the southeast Alaska communities of Petersburg, Juneau, Sitka, and Gustavus, as well as Seward and Homer in south central Alaska. The tours range from several hours in duration to day-long trips.

Most whale watching activity occurs within less than a couple of hours of the coastal town from which it originates. This often means that the same group of whales in a local feeding area is continually exposed to vessel traffic throughout the duration of the whale watching season.

Except for those trips that conduct whale watching as a sideline to a sport fish charter, most of the tours generally follow a specific route, stopping at known humpback whale feeding sites, as well as specific sites occupied by other marine wildlife. Depending on the schedule of the tour, the vessels may stop to view feeding humpbacks for the length of several dive cycles, i.e., 20 minutes, or for extended periods of time up to an hour or more.

The whale watching season in Alaska typically starts in early to mid-May as the whales, and subsequent influx of tourists, arrive in the state. Tours generally operate on a daily basis through late fall.

Whale watch activities are conducted from a variety of platforms: small vessels supporting recreational boaters, kayaks, sport fishing/wildlife viewing charters that can carry 6 passengers, and larger 100–150 foot vessels capable of carrying 100 or more passengers. The majority of vessels have conventional prop-driven engines; some of the newer and larger catamarans are water-jet propelled.

Whale watching is unregulated in Alaska, except for the waters of Glacier Bay, regulated by the National Park Service, which established a minimum approach distance of 1/4 mile (440 yards or 0.4 km) from humpback whales. Whale watching vessels in Alaska that carry paying customers must obtain Coast Guard-regulated licenses to carry passengers and must have state business licenses to operate.

**Impact of Vessel Traffic on Whales**

Adverse impacts to marine mammals from whale watching could occur in several ways: direct physical impact from a vessel strike; noise effects could impede echolocation in some whales or damage or interfere with hearing; disruption and alteration of normal feeding, resting and other critical behaviors; habitat modification; and reduced fitness; all of which may ultimately lead to reproductive effects and population level changes.

Studies of vessel impacts to marine mammals have more often looked at short-term effects (e.g., measuring disturbance or avoidance behaviors) rather than long-term or cumulative effects of repeated exposure to numerous vessels over time (e.g., decreased survivability or reproductive effects such as increased birthing intervals, which would directly affect productivity). Generally this is because immediate responses to vessel presence, such as avoidance behavior or changes in dive patterns, can be measured more easily than long-term effects. Further, interpretation of measured effects can be difficult. Studies on one species or group of animals (i.e., a feeding aggregation vs. a transiting aggregation vs. a breeding or calving aggregation) may not be applicable to another species or group.

The potential for vessels to cause disturbance to marine mammals is widely recognized. However, the literature on quantified impacts is not extensive. Baker and Herman (1989) note that ''human disturbance has the potential to reduce an animal's biological fitness, defined as its relative reproductive contribution to subsequent generations, and thus inhibit the recovery of an endangered population.'' These authors conducted controlled studies on the impact of vessel traffic on humpback whales in Glacier Bay and in the Frederick Sound area of southeast Alaska. They examined responses to obtrusive, unobtrusive, and ''pass by'' conditions conducted by different vessel classes.

In this study, the obtrusive condition resulted in a striking increase in the frequency of blows when the whale was near the surface and an increase in the longest submergence observed (Baker and Herman 1989). Respiratory behaviors were the most sensitive indicators of response to a vessel. The effects declined as the activity of the vessel moderated during the unobtrusive and ''pass by'' conditions. The authors identified a 400 meter (m) range of influence within which vessel operations accounted for 27.5 percent of the variance in the blow intervals of whales.

Baker and Herman (1982, 1989) also noted a tendency of humpback whales to orient in the direction of the vessel as it approached, and then to turn away at a perpendicular direction as the vessel reached its closest point of approach. The percentage of whale movement devoted to avoidance behavior increased from 15 percent at a distance from the vessel of 4000 m to 27 percent at a distance from the vessel of 1000 m. Of note, however, is that predictable behavioral reactions to the

vessels were evident up to a distance of 4000 m from the vessel.

Baker and Herman (1989) also observed changes in aerial behavior and pod composition with the proximity and presence, respectively, of vessels. The presence of large vessels was correlated with changes in pod composition; aerial behavior occurred with a 50-percent probability when vessels approached within 478 m of the focal pod.

Despite changes in whale behavior occurring in response to vessel presence, the animals may not abandon the area in which the disturbance occurs. As Baker and Herman (1989) note, the availability of a rich food source may outweigh the disadvantages posed by the high level of vessel traffic and potential disturbances. This, however, does not preclude the possibility that an effect exists.

The dependence of humpback whales on the dense aggregations of prey may cause these whales to remain in an area to feed, despite potentially negative impacts from nearby vessels. The impact, therefore, could be one that occurs over time, reducing the overall fitness of the individual and manifested in reproductive or population level changes.

The range of vessel types that could interact with humpback whales in coastal Alaska includes the large commercial transport industry such as oil supertankers; tug and barge operations; ferries; fishing vessels; commercial tourism vessels including large cruise liners; wildlife viewing vessels; smaller owner-operator charter vessels that conduct multi-purpose tours; eco-tourism companies (specifically kayak-based tours); and private recreational vessels. However, vessels actively engaged in whale watching are the group of primary concern.

Although whale watching activities have been going on for some time in some areas of Alaska, the pressure has been at a level much lower than that which exists currently. Although not comprehensive, some data on the whale watch industry are available. Commercial Fisheries Entry Commission (CFEC) of the State of Alaska gathers data on charter vessels. These data represent the number of vessels in Alaska that register as charter fishing vessels. Some of the fishing charter fleet also offer whale watch charters; the CFEC statistic does not, however, include those vessels that conduct exclusively whale watching charters. In 1998, 3,670 vessels were registered as charter fishing vessels, an increase of 212 percent from 1988 (CFEC 1999). While this is not a direct measure of the universe of whale watching charters, the overlap between the charter fishing industry and the whale watching charter industry indicates that the number of charter vessels that could potentially interact with humpback whales is growing. This statistic also shows a significant increase in the charter industry over the last 10 years.

The U.S. Coast Guard state vessel registration program records all vessels under 5 net tons operating in Alaska waters. Data from 1999 indicate a total of 34,353 active vessels. This includes 2,171 commercial passenger vessels, 4,809 commercial fishing vessels, 660 rental vessels, 24,462 pleasure vessels and 1,226 in the ''other'' category. Some portion of the commercial passenger vessels are used for whale watching activities. Most of the remaining vessels could potentially interact with whales; the degree of interaction is likely to be minimal, except perhaps for pleasure craft whose operation can be directed at humpback whales. The majority of the 34,353 vessels, however, likely operate in coastal waters, overlapping to some extent with the range of the humpback whale. Although NMFS does not have information on specific vessel use patterns, the number of vessels that could interact with humpback whales has increased substantially in recent years and is likely to continue to grow.

The impact of the current level of viewing pressure, or an increased viewing pressure, may not be fully understood for many years. The risk of harm to the species from a possible delay in detecting a long-term negative response to increased pressure provides impetus to implement measures on a precautionary basis to manage vessel interaction with humpback whales in waters off Alaska.

**Background to Proposed Regulations**

The ESA and the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.* (MMPA), give NMFS jurisdiction over humpback whales. The proposed regulations are promulgated under the authority of both the ESA and the MMPA. The rule is an appropriate mechanism to promote conservation and recovery of humpback whales, and to enhance enforcement under the ESA. Section 11(f) of the ESA provides NMFS with broad rulemaking authority to enforce the provisions of the ESA.

For example, section 9(a) of the ESA prohibits the take of endangered marine mammals. Given that close approaches to humpback whales could harm, harass, injure or otherwise ''take'' one or more of this endangered species, the proposed rule provides a safeguard against section 9(a) violations, and facilitates enforcement. In addition, Section 112(a) of the MMPA provides NMFS with broad authority to prescribe regulations that are necessary to carry out the purposes of the statute.

The MMPA contains a general prohibition on ''taking'' a marine mammal. ''Take,'' under the MMPA, means to harass, hunt, capture, ''collect'' or kill any marine mammal, or attempt to do any of the above. Harassment is defined as any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild; or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing a disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. The ESA generally prohibits the ''taking'' of an endangered species. The ESA defines ''take'' to mean ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' The measure proposed in this rule is consistent with and is designed to implement the prohibition on ''take'' under both the ESA and the MMPA.

Beyond the prohibitions on ''take'' in the MMPA and the ESA, no protective regulations have been promulgated by NMFS in Alaska for humpback whales. Specific restrictions are implemented by the National Park Service for waters of Glacier Bay National Park and Preserve (36 CFR § 13.65). The restrictions within the boundaries of the Park include a minimum approach distance of 1/4 mile (440 yards or 0.4 km). Approaches to humpback whales within 200 nautical miles (370.4 km) of Hawaii may be no closer than 100 yards (91.4 m) (50 CFR § 224.103(a)). Approaches to North Atlantic right whales may be no closer than 500 yards (457 m) (50 CFR 224.103(b)).

In 1996, NMFS, Alaska Region, developed Marine Mammal Viewing Guidelines (Guidelines) designed to help people avoid ''taking'' a marine mammal and to provide protection to marine mammals subjected to viewing pressure. The Guidelines detailed appropriate viewing behavior from water-based platforms, including a 100 yard (91.4 m) minimum approach distance. Guidelines were also established for viewing from land and from aircraft. These Guidelines apply to all marine mammals in waters off Alaska (cetaceans and pinnipeds, except walrus) under the jurisdiction of NMFS. The Guidelines include minimum approach distances as well as general

operating procedures designed to reduce the potential impact to marine mammals. These proposed regulations would establish mandatory approach limits for humpback whales. The Guidelines would remain in effect for approaches to other marine mammals. The Guidelines would also continue to apply to other forms of conduct around humpback whales, such as suggested time limits on viewing individuals or groups of animals, and aircraft altitude.

The Guidelines have relied on voluntary compliance on the part of the public and the charter boat industry since implementation. Other than the ability to prosecute ''takes'' under the MMPA and the ESA, the Guidelines are not enforceable.

The viewing pressure has increased substantially over the last several years. The charter boat industry has grown in several key locations in southeast Alaska and in south central Alaska such that the potential impact to humpback whales is much greater than in earlier years.

In response to this recent increase in vessel traffic, NMFS, Alaska Region, expanded its public outreach effort. Public meetings were held in key coastal communities around the state to increase public awareness of and compliance with the Guidelines. The Guidelines brochures were also distributed through direct mailouts to affected parties, through various media, and at numerous public venues around the state. Meetings were also held with charter boat groups to discuss the Guidelines as well as to discuss remedies to non-compliance. However, after 3 years of an extensive campaign to promote the Marine Mammal Viewing Guidelines, non-compliance continues to occur. As public viewing increases, the potential for negative impacts to the animals increases. After careful evaluation of the overall marine mammal viewing situation in Alaska, NMFS has concluded that regulations are necessary to manage the threat to humpback whales caused by viewing pressure and to minimize the potential impact of increased human viewing pressure. Regulations are also necessary to provide an enforcement tool. Regulations are considered to be most critical for humpback whale watching because, as noted earlier, the nature of humpback whale distribution and feeding behaviors concentrates viewing pressure on individuals or groups of individuals over extended periods of time. The more transitory nature of other cetacean species may make them less vulnerable to potential negative impacts of marine mammal viewing activity.

The Alaska Region requested and received individual recommendations for specific protective measures from biologists, tour operators, members of the public and other interested parties. The recommendations included minimum approach distances ranging from 100 to 500 yards (91.4 to 457 m), speed limits around humpbacks, limits on time spent with an animal or group of animals, permitting, certification programs, and reductions in underwater noise levels.

**Description of Proposed Regulations**

Measures such as those described here might provide elements of protection for humpback whales exposed to vessel traffic; however many of these measures are also difficult to implement in an effective, practical, and enforceable way. Permitting and certification programs require a large infrastructure to implement as well as presenting equity issues in determining who is permitted/certified and who is not. Ambient noise in the underwater environment can often be fairly great, and measuring and regulating the relative contribution by certain vessel types would be difficult to do. Imposing noise reduction requirements on certain vessels could also require significant changes to a vessel's construction. Restricting vessel speed and time in an area or with a whale was considered problematic due to constraints that this measure could place on '' non-target'' vessels.

Restricting vessel speed and time in an area or with a whale was considered problematic at this time. There would need to be some relative aspect to speed limits such as a certain speed within defined geographic areas or within a certain area surrounding a whale. Implementing speed limits is difficult from an enforcement perspective.

Implementing speed limits within defined geographic areas could be unnecessarily restrictive and potentially dangerous in Alaska where some of the areas frequented by humpback whales, which involve narrow passageways with swift currents and large tidal fluctuations. Applying a slow speed limit to these areas could be hazardous for vessels. Placing speed limits within a certain area relative to the location of the whale (e.g., 5 kts within 300 yds) would be difficult for vessels to adhere to as the whales are constantly moving, which would require constant fine tuning for speed on the part of the vessel and potential greater disturbance to the whale with constant speed changes. Speed limits would also be difficult to enforce on a practical scale. Imposing time limits on a vessel staying with a whale may also be difficult to enforce; particularly in determining what the point of reference is; i.e., an individual whale or group of whales and the burden of proving that it was the same individual or group, and group composition, that the vessel was staying with. Exempting certain types of non-motorized vessels from the 200 yard approach restriction was considered but is not proposed because of the risk that these types of vessels could surprise or startle a whale due to their size and silence.

NMFS is not proposing regulations for minimum altitude for aircraft in Alaska because of complications arising from the unique weather situation in Alaska. Inclement weather often forces pilots to fly at the minimum Federal Aviation Administration altitude, which may be lower than the recommendations in the Marine Mammal Viewing Guidelines.

Some of the preceding recommended measures may, however, be further considered in the future.

The primary objective of implementing regulations of this nature is to manage the threat to humpback whales caused by whale watching activities, and to minimize disturbance that could adversely affect the individual animal or the population. This should be balanced with the objective of allowing whale watching activities to occur. Whale watching activities can be good platforms for education about cetacean behavior and habitat concerns. NMFS believes that the most appropriate measure to minimize impacts to humpback whales that would also provide a satisfactory viewing opportunity is to implement a minimum approach distance for vessels operating around humpback whales.

NMFS, therefore, proposes to prohibit anyone from approaching, by any means including by interception (e.g., placing the vessel in the path of a humpback whale so that the whale surfaces within the buffer zone) within 200 yards (182.8 m) of a humpback whale in waters off Alaska. This measure is designed to manage the threat caused by vessels engaged in whale watching so that they do not encroach upon the whales and cause a disruption of normal activities and, thereby, implement the protections established by the ESA and the MMPA. This measure would also provide a greater enforcement ability. Including a prohibition on interception in these regulations adopts and codifies the NMFS' policy and practice with respect to enforcement of the Hawaii humpback whale regulations.

NMFS is also including two other measures that supplement the approach regulation. These measures are

contained in regulations concerning humpback whales in Hawaii and are considered applicable to Alaska. NMFS proposes to prohibit someone from causing a vessel or other object to approach within 200 yards (182.8 m) of a humpback whale and also from disrupting the normal behavior or prior activity of a whale by any other act or omission. The latter provision contains some of the elements currently expressed in recommended NMFS Marine Mammal Viewing Guidelines.

The Marine Mammal Viewing Guidelines recommend not approaching within 100 yards (91.4 m) of a marine mammal. NMFS believes that the 100 yard (91.4 m) recommendation in the guidelines is not enough to ensure minimal disturbance to humpback whales in Alaska.

NMFS considered several factors, as outlined here, in determining the 200-yard (182.8 m) minimum approach distance. Humpback whales return to the same localized areas during the summer months for intensive feeding in preparation for the return southward migration and a long period of fasting. Studies (Calambokidis, et al., 1997) of North Pacific humpback whales indicate that less interchange of animals from one site to another occurs in their feeding areas off Alaska than occurs in the Hawaiian subareas of their winter range. A greater degree of site fidelity in Alaska may make the animals more vulnerable to negative pressure. In Alaska, humpback whales may be less inclined to move to another site when disturbed, despite potentially negative impacts from vessel presence.

Many of these feeding areas in Southeast Alaska, in particular, are easily accessible from coastal communities that support large numbers of vessels. Dedicated whale watching operations have increased substantially in recent years and represent a constant daily presence around some groups of feeding humpback whales. This is the impetus to ensure that disturbance during feeding is minimized. Critical feeding activity may be interrupted by close approaches by vessels. Given the critical need of these animals to obtain the maximum amount of prey during a relatively short time period and their site fidelity, establishing a minimum approach distance that ensures only a minimum disturbance occurs during the summer feeding months is warranted.

In developing these proposed regulations, NMFS also solicited individual comments from the public and the whale watching industry. The greatest number of comments suggested speed limits around animals, followed by suggestions for minimum approach distances. Some respondents, including industry respondents, suggested that the distance be increased from the distance in the Guidelines, up to 200 to 500 yards (182.8 to 457 m). Another significant factor taken into consideration was that Baker and Herman (1982, 1989) found that vessels can alter the behavior of humpback whales at distances ranging from 400 m (437.2 yards) to 4000 m (4372 yards) from a whale. Corkeron (1995) showed in Hervey Bay, Australia, that for non-calf and calf pods of humpback whales, the animals dove more often in the presence of vessels when the vessels were within 300 m of the animal. Although these studies did not evaluate vessel effects at lesser distances, it is reasonable to conclude that closer vessel approaches entail an equal or greater likelihood of altering an animal's behavior.

In addition to these considerations, NMFS conducted informal observations of vessel-whale interactions in southeast Alaska. Many of the viewing opportunities in southeast Alaska occur in tightly constrained areas where the local geography consists of many small islands with somewhat shallow and narrow passageways. Several vessels grouped at a distance of only 100 yards (91.4 m) from a whale may effectively deny a whale an apparent escape route, and also potentially restrict its movement during feeding. Finally, Glacier Bay National Park and Preserve (Park) regulations that prohibit vessel approaches closer than 1/4 mile (440 yards or 0.4 km) to humpback whales were considered.

Within the ''buffer zone'' (i.e., the area between vessels and whales, as established by NMFS guidelines or regulations), some degree of inadvertent encroachment will likely occur as vessels drift, maneuver around each other and whales, and as the whales move. This can create a situation in which the resulting distance between a vessel and a humpback whale is less than necessary. Extending the limits of this ''buffer zone'' to 200 yards (182.8 m) by regulation would allow for a greater effective distance from the whales while still allowing for good viewing opportunities.

Based on the factors described here, NMFS concluded that the minimum approach distance specified in the Alaska Guidelines is inadequate and should be increased, but not so far as to appreciably diminish the viewing experience. A distance of 200 yards (182.8 m) was determined to be the most appropriate to minimize negative impacts to humpback whales while still allowing for good viewing opportunities.

The regulation would require that vessel operators ensure that, as they approach a humpback whale, they do not position the vessel closer than 200 yards (182.8 m) to the animal. NMFS recognizes that there are circumstances when a whale, under its own volition, might come within 200 yards (182.8 m) of a vessel. This might occur as a vessel idles at a specific site, is at anchor or is underway.

This prohibition is not designed to cause a vessel to retreat from the area when a whale approaches the vessel within the 200 yard (182.8 m) limit. However, a distinction is made between a vessel that is positioned to intercept the path of the whale such that the whale surfaces within the buffer area. The latter kind of maneuvering would be prohibited by the regulation. NMFS believes that requiring vessels to engage in avoidance maneuvers to reposition outside of 200 yards (182.8 m) in those instances when a whale approaches under its own volition would create greater potential for disturbance or physical impact than having the vessel remain in its original position. Thus, no avoidance measures are proposed.

All vessels would be prohibited from approaching within 200 yards (182.8 m) of a humpback whale.

The minimum approach distance proposed by NMFS would not supersede more conservative measures that apply to the designated waters of Glacier Bay National Park and Preserve.

**Classification**

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

NMFS has prepared a draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), which is available from NMFS (see **ADDRESSES**). A summary of the analysis follows:

The analysis describes the reasons why the action is being considered and contains a succinct statement of the objectives of, and the legal basis for, the proposed rule. These are described earlier in this preamble.

The analysis contains a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The Small Business Administration establishes criteria for defining a ''small entity'' for purposes of the RFA. However there are no specific criteria for most of the industry sectors to which this proposed regulation would apply. Therefore, NMFS is applying conservative fishing

industry criteria of less than 100 employees (applicable to fishing businesses other than processors) and less than $3M gross revenues as a threshold measure for definition of ''small entities.'' NMFS does not have access to information on the number of employees and the gross revenues of the affected industry sectors. As a result, qualitative judgements are made about whether the various affected industry sectors are ''small entities'' or not. Those industry sectors likely to be ''small entities'' are owner-operator whale watch businesses, the primary focus of the regulation, and eco-tourism companies (in this case mostly local kayak tour businesses), as well as some owner-operator fishing enterprises. Other industry sectors such as the large maritime transport industry, the large cruise line industry and most tug and barge operations are not likely to be ''small entities.'' The only governmental jurisdiction (included because of the operation of the state ferry system) to which this regulation would apply is the State of Alaska, which, having greater than 50,000 residents, would not be considered a small governmental jurisdiction.

This proposed rule does not contain any reporting or record keeping requirements. This proposed rule does not duplicate, overlap or conflict with any other relevant Federal rules. The National Park Service (NPS) promulgated regulations at 36 CFR 13.65 that establish approach rules for humpback whales in Glacier Bay National Park and Preserve, Alaska. The NPS regulations set minimum approach distances to humpback whales of 1/4 mile within waters of Glacier Bay National Park and Preserve. These regulations are more restrictive than the rule proposed by NMFS. This proposed rule specifically provides that it will ''not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.65 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

This proposed rule reflects the preferred method of restricting approaches to humpback whales in Alaska. In addition to the proposed rule, five alternatives were evaluated:

Alternative 1. Maintain the status quo. The Marine Mammal Viewing Guidelines (Guidelines) developed by NMFS Alaska Region in 1996, include minimum approach distances as well as general operating procedures designed to reduce the potential impact vessels on marine mammals. However, several issues make the current situation ineffective in preventing disturbance, as described earlier in this preamble: (1) ''take'' provisions of the MMPA and ESA may be difficult for the public to interpret and, therefore, abide by; (2) ''take'' prohibition is difficult to enforce; and (3) because the Guidelines are not codified as law, they must be adhered to on a voluntary basis for them to be effective. Reports received by the NMFS, Alaska Region, indicate that the Guidelines are not adhered to on a consistent basis. Viewing pressure, particularly from dedicated whale watch operations and recreational boaters, has increased in recent years and is likely to continue to increase.

*Alternative 2. Limit approaches to a humpback whale to a minimum distance from the whale.* Two options available under this alternative include: (1) prohibit approaches by any means, including by interception within 100 yards (91.4 m) of a humpback whale in waters off Alaska; and (2) Prohibit approaches by any means, including by interception within 200 yards (182.8 m) of a humpback whale in waters off Alaska (Preferred Alternative).

Based on factors described earlier in this preamble, NMFS has concluded that the 100 yard (91.4 m) minimum approach distance currently specified in the Alaska Guidelines is inadequate, and that 200 yards (182.8 m) is the most appropriate distance to minimize negative impacts to humpback whales in Alaska, while still allowing for good viewing opportunities. The critical need of the whales to obtain the maximum amount of prey during a relative short time period and their site fidelity may make the animals more vulnerable to negative pressure from vessels.

Further, the potential exists for behavior changes by animals in the presence of vessels. Studies have shown alterations in behavior of humpback whales caused by vessels within the 400 m to 4000 m range. Although these studies did not evaluate vessel effects at distances of less than that, it stands to reason that closer vessel approaches entail an equal or greater likelihood of altering an animal's behavior.

Finally, informal observations by NMFS of vessel-whale interactions in southeast Alaska indicate that many of the viewing opportunities in southeast Alaska occur in tightly constrained areas where the local geography consists of many small islands, at a distance of only 100 yards (91.4 m) for a whale, may often not leave the whale with an apparent escape route, and also potentially restrict its movement during feeding.

*Alternative 3. Establish protective measures other than approach distances.* Other potentially protective measures considered by NMFS for humpback whales in Alaska waters include: speed limits, limits on time spent with an animal(s), permitting or certification programs, and reduction in underwater noise. While these measures could provide a degree of protection for humpback whales exposed to vessel traffic, most are difficult to implement and/or monitor in an effective, practical and enforceable way. Permitting and certification programs require a large infrastructure to implement and involve equity issues in determining who is permitted/certified and who is not. Measuring and regulating the relative contribution by certain vessel types would be difficult, as would imposing noise reduction requirements on vessels. Implementing vessel speed limits could be unnecessarily restrictive and potentially dangerous in Alaska where some of the areas frequented by humpback whales are narrow passageways with swift currents and large tidal fluctuations, and could also be difficult to enforce on a practical scale. Imposing time limits on whale watch vessels could also be difficult to enforce.

*Alternative 4. Prohibit approaches to humpback whales within a certain distance but exempt certain vessel types (e.g., kayaks or non-motorized vessels.* The intuitive reasoning for exempting kayaks and other non-motorized vessels from approach regulations is that they are less likely to cause a disturbance or negative impact to humpback whales. However, because of their size, maneuverability, and silence, such vessels can be more likely to surprise or startle a whale(s). This may be particularly true when humpback whales are intensively feeding and are using noise cues to detect objects at the surface. NMFS, Alaska Region, has received, and continues to receive complaints of kayaks disturbing whales. Implementing this alternative would also create an inequitable situation among boat operators. *Alternative 5. Establish certain vessel limits within varying distances of a humpback whale.* For example, different limits on the number of vessels that may be within 100 yards, 200 yards, etc., of a humpback whale. This alternative may be effective at minimizing pressure on humpback whales by dispersing the vessels over greater distances. However, a spatial arrangement would inadvertently establish prime and exclusive viewing for the vessels that are closest, thereby possibly placing some businesses at a competitive disadvantage. One way of alleviating

such competition, would be to establish time limits within the various viewing circles to avoid the establishment of exclusive viewing areas closest to the whales. However, time limits would be very difficult to implement, monitor, and enforce.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, NMFS seeks public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

**List of Subjects in 50 CFR Part 224**

Endangered and threatened species, Exports, Imports, Transportation.

For the reasons set out in the preamble, 50 CFR part 224 is proposed to be amended as follows:

## PART 224 ENDANGERED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 224 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

2. In § 224.103, paragraph (a) is revised to read as follows:

**§ 224.103 Special prohibitions for endangered marine mammals.**

(a) *Approaching humpback whales*—(1) *Hawaii.* Except as provided part 222, subpart C of this chapter (General permit Procedures), it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, or cause to be committed, within 200 nautical miles (370.4 km) of the Islands of Hawaii, any of the following acts with respect to humpback whales (*Megaptera novaeangliae*):

(i) Operate any aircraft within 1,000 feet (304.8 m) of any humpback whale;

(ii) Approach, by any means within 100 yards (91.4 m) of any humpback whale;

(iii) Cause a vessel or other object to approach within 100 yards (91.4 m) of a humpback whale; or

(iv) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities; attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movement; or the abandonment of a previously frequented area.

(2) *Alaska.* Except as provided in part 222, subpart C of this chapter (General Permit Procedures), it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, within 200 nautical miles (370.4 km) of Alaska, any of the acts in paragraphs (a)(2)(i) through (iii) of this section with respect to humpback whales (*Megaptera novaeangliae*):

(i) Approach, by any means, including by interception, within 200 yards (182.8 m) of any humpback whale;

(ii) Cause a vessel or other object to approach within 200 yards (182.8 m) of a humpback whale; or

(iii) Disrupt the normal behavior or prior activity of a whale by any other act or omission, as described in paragraph (a)(1)(iv) of this section.

(iv) These regulations shall not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.65 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

* * * * *

Dated: June 19, 2000.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Parts 300 and 679

**[Docket No. 000616184–0184–01; I.D. 050500A]**

**RIN 0648–AK74**

## Fisheries of the Exclusive Economic Zone Off Alaska; Prohibition of Groundfish Fishing and Anchoring in the Sitka Pinnacles Marine Reserve

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Amendment 59 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), and to make changes to the regulations governing the halibut fishery. This action would designate a 2.5 square nautical mile (nm) area of Federal ocean water above and surrounding the Pinnacles off Cape Edgecumbe in the Gulf of Alaska (GOA) as the Sitka Pinnacles Marine Reserve. This area, which is an unusually productive and highly fragile marine habitat, would be closed to fishing for groundfish or anchoring by vessels holding a Federal fisheries permit. The area would also be closed to commercial or sport fishing for Pacific halibut, and to anchoring by sport or commercial halibut vessels. The intent of this action is to protect an area containing important fish habitat from degradation due to fishing and anchoring impacts, and to create a groundfish reserve.

**DATES:** Comments on the proposed rule must be received by August 10, 2000.

**ADDRESSES:** Comments must be sent to Susan Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Comments may also be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK. Copies of Amendment 59 and the Environmental Assessment/Regulatory Impact Review/Initial Flexibility Analysis (EA/RIR/IRFA) prepared for the amendment by the North Pacific Fishery Management Council (Council) and NMFS are available from the Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501–2252; telephone 907–271–2809.

**FOR FURTHER INFORMATION CONTACT:** Nina Mollett, 907–586–7462, fax 907–586–7465, e-mail nina.mollett@noaa.gov.

**SUPPLEMENTARY INFORMATION:** Regulations governing the domestic groundfish fisheries appear at 50 CFR parts 600 and 679. Regulations governing the domestic halibut fisheries appear at 50 CFR 300.60 to 300.65. These regulations supplement the annual fishery management measures adopted by the International Pacific Halibut Commission (IPHC) under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea.

The Council has submitted Amendment 59 to the Secretary of Commerce (Secretary) for review. NMFS published a notice of availability (NOA) of the FMP amendment on May 12, 2000 (65 FR 30559), with comments on the FMP amendment invited through July 11, 2000. Written comments may address the FMP amendment, the proposed rule, or both, but must be

received by July 11, 2000, to be considered in the approval/disapproval decision on the FMP amendment.

**Management Background and Need for Action**

The Sitka Pinnacles area, in the Southeast Outside District of the GOA near Cape Edgecumbe, provides highly productive habitat for many species at different stages of their life cycles. Information collected during manned submersible surveys of groundfish habitat by the Alaska Department of Fish & Game (ADF&G) indicates that the diversity and density of fish in that area is much greater than is typical of the eastern continental shelf. The area could easily be overfished because of the concentration of fishes in a relatively small, compact space. State and Federal biologists have recommended that the Sitka Pinnacles and surrounding waters be given protective status as a marine refuge.

Accomplishing this requires cooperation among NMFS, ADF&G, and the IPHC, because different species are managed under different jurisdictions (see Table 1).

| Species | Agency | Law |
|---|---|---|
| Commercial and recreational fishing for lingcod and black rockfish | ADF&G | These fisheries are closed under 5 AAC 28.150. |
| Groundfish | NMFS | Would be accomplished by proposed Amd. 59 and proposed regulatory amendments at 50 CFR 679.2 and 679.22. |
| Halibut | NMFS and IPHC | Would be accomplished by proposed regulatory amendments at 50 CFR 300.63 and 679.22. |
| Scallops | ADF&G | Under Amd. 3 to the Fishery Management Plan for Scallop Fisheries off Alaska, NMFS delegates responsibility to the State for managing the scallop fishery. Scallop dredging has been closed under 5 AAC 38.120 in the ''Central Southeast Outside'' area, which includes the proposed reserve, since July, 1994. |
| Commercial and Recreational Salmon | NMFS and ADF&G | The Alaska State Board of Fish considered closure to salmon fishing at its February 2000 meeting and rejected the proposal. |

The Sitka Pinnacles (also called the Cape Edgecumbe Pinnacles) consist of two large volcanic cones that rise abruptly off the seafloor. The top of one is less than 70 meters below the sea surface, and the other is less than 40 meters below the sea surface. The area from the sea surface to the seafloor provides a variety of rich habitat suitable for different species. Large numbers of juvenile and adult bottom-dwelling rockfish find shelter among the algae, anemones, and other flora and fauna that cover portions of the rock walls. The field of boulders on the bottom provides a spawning bed for lingcod and refuge for large numbers of commercially valuable species like yelloweye and tiger rockfish, along with non-commercial species such as prowfish.

Juvenile and adult rockfish and huge concentrations of lingcod use the flat, irregular tops of the pinnacles as a feeding platform. Schooling species, such as yellowtail and widow rockfish, feed along the pinnacle walls and in the water column between the top of the pinnacles and the surface. The area has been used for fishing, especially with hook-and-line gear, for decades. In the late 1980s, a directed fishery for lingcod developed on the pinnacles. The high density and aggressive feeding behavior of lingcod made them extremely susceptible to capture; hourly catch rates of lingcod at the site exceeded catch rates in the surrounding area by threefold. In 1991, the State of Alaska began attempting to preserve lingcod populations in nearby State waters (the Sitka Pinnacles are in Federal waters) through closures during winter when male lingcod are nest guarding, and, in 1994, through spring/summer in-season closures of State-regulated fishing in areas that included the pinnacles. In 1995, ADF&G included the pinnacles area in the winter closure as well. In 1997, ADF&G issued an emergency order closing the area to all State-regulated groundfish fishing for the entire season. However, the sport fishing industry was not affected by any of the State's management actions and continued to take lingcod and Pacific halibut. In May of 1998, the commercial and sportfish divisions of ADF&G submitted joint proposals to the Alaska State Board of Fish and the Council to close the Sitka Pinnacles area. The Board of Fish closed the area to fishing for lingcod and black rockfish, which are species under its jurisdiction. It took up the question of closing the area to commercial and recreational salmon fishing in February 2000, but decided against such a closure.

This action would complement State regulations by designating a 2.5 square nm area of Federal waters above and surrounding the Sitka Pinnacles as the Sitka Pinnacles Marine Reserve. The area would be closed to fishing or anchoring by vessels required to have a Federal fisheries permit under § 679.4(b). The area would also be closed to fishing for halibut or anchoring by vessels required to have on board an individual fishing quota (IFQ) halibut permit under § 679.4(d). In addition, the area would be closed to sport fishing for halibut as defined at § 300.61, or anchoring by vessels having halibut on board. The IPHC manages Pacific halibut under the Northern Pacific Halibut Act. The Act states that the Regional Fishery Management Council may develop regulations governing U.S. waters ''which are in addition to, and not in conflict with, regulations adopted by the Commission'' (16 U.S.C. 773c(c)).

The combined effect of State and Federal regulations would be to allow the Sitka Pinnacles ecosystem to maintain its natural levels of production by eliminating the harvest or bycatch of fish during critical portions of their life cycle. The prohibition on anchoring would eliminate a source of potential degradation of the area's fragile habitat.

**Classification**

At this time, NMFS has not determined that the amendment this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable law. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

Nothing in this proposed action would result in any changes in reporting or recordkeeping requirements. The analysis for this proposed action did not reveal any existing Federal rules that duplicate, overlap, or conflict with the actions proposed in the alternatives.

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

NMFS has prepared an IRFA that describes the impact this proposed rule, if adopted, may have on small entities. NMFS estimates the total number of entities to which this rule would apply to be 2,618, which includes 1,048 fixed gear groundfish vessels and 1,570 halibut vessels, based on 1998 data for vessels that fished in the GOA. This figure does not include trawl vessels, which are already prohibited from fishing in this area under Amendment 41 (63 FR 8356, February 19, 1998). Of the non-trawl vessels, the great majority (90 percent) are catcher vessels under 60 feet in length overall. Although this rule would apply to all vessels that can fish in the GOA, only a portion of these vessels have fished in the statistical area (S.A.) the rule would affect. Therefore, NMFS estimates that it is likely that, at most, only 688 entities could be affected. This number represents 224 commercial groundfish vessels, 67 halibut IFQ vessels, and 397 charter companies that fished in the area in 1998. NMFS lacks the necessary data on ownership, affiliation, contractual relationships, etc., to determine which of these operations are ''small entities'' for Regulatory Flexibility Act purposes, and some of these 2,618 vessels might not qualify under Small Business Administration criteria. However, for the purposes of the IRFA analysis, NMFS assumes all of these groundfish and commercial halibut vessels to be small entities, given the nature of the fisheries they participate in and the unlikelihood that many of them would reach annual gross revenues in excess of $3 million.

The actual number of vessels affected by this proposed rule would likely be even smaller. Few commercial fishing vessels currently use the area. Most, if not all, groundfish longliners, and halibut fishermen as well, have voluntarily avoided the pinnacles area for the past 2 years, since ADF&G regulations prohibiting the take of groundfish species under its jurisdiction took effect.

Even if a few vessels were still fishing in the proposed reserve, it is unlikely that any of them would be adversely affected by the closure to any significant extent, as the area constitutes less than 1 percent of the grounds in S.A. 355631, and less than a thousandth of 1 percent of the total available fishing grounds in the GOA (about 340,000 square nm). To the extent that any halibut IFQ vessels may be displaced, similar opportunities to fish for halibut exist throughout the area. It is unlikely that any lost fishing opportunity or increase in fuel costs would be incurred. For groundfish vessels, however, there are no comparable fishing grounds that offer the density of groundfish that occur on the pinnacles. To the extent that there are any groundfish vessels targeting rockfish other than those prohibited by the State, this rule could result in an unquantifiable loss of fishing opportunity.

In addition to the commercial fishing vessels, 588 charter vessels, owned by 397 businesses, fished for halibut in 1998 in IPHC Area 2C, in which the Sitka Pinnacles are located. Of the charter vessels, 364 were homeported in Sitka, and 191 of the Sitka vessels targeted bottomfish, including Pacific halibut. Although the opportunity of charter boat operators, as well as individual anglers, to fish for Pacific halibut could be affected by this proposed action, few, if any, of these charter boats have been fishing on the pinnacles since the State closed the area to lingcod and to State-managed rockfish species in the summer of 1998. The aggregations of lingcod present on the pinnacles were an incentive to travel to this site. Although halibut do occur on the pinnacles, they do not aggregate there in any greater numbers than elsewhere in S.A. 355631. Thus, as is the case for halibut IFQ vessels, these vessels are not expected to experience negative economic impacts as a result of displacement from the pinnacles.

In summary, the cost to small entities of the proposed closure and prohibition on anchoring is expected to be quite low, as the area being proposed for closure constitutes an extremely small percentage of available fishing grounds. Few, if any, vessels have been fishing in the area since ADF&G promulgated regulations prohibiting fishing for groundfish species under its jurisdiction in 1998. Lingcod was the primary incentive for charter vessels to fish in this area, which congregated on the pinnacles and created an easy target. For species that may be found in the area but not in special concentrations, such as halibut and some groundfish species, little if any cost would be incurred to those vessels targeting these species to avoid this area. There are ample fishing grounds nearby that require no additional fuel or other costs.

The prohibition on anchoring would protect from damage the fragile structures growing on the pinnacles.

NMFS considered one alternative that could have had less economic impact on small entities-–maintaining the status quo. Maintaining the status quo could minimize economic impacts on small entities. This alternative would not affect small entities except that some fishermen who have been avoiding the area because of local support for the marine reserve might resume fishing on the pinnacles. Some small economic advantage might be gained by small entities, on the theory that increasing the options for business entities always increases the potential for making profit-maximizing decisions. As previously stated, the proposed reserve is small and other productive fishing grounds are available and equally accessible.

**List of Subjects**

*50 CFR Part 300*

Administrative practice and procedure, Exports, Fish, Fisheries, marine resources.

*50 CFR Part 679*

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: June 20, 2000.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons discussed in the preamble, 50 CFR parts 300 and 679 are proposed to be amended as follows:

## PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300, subpart E, continues to read as follows:

**Authority:** 16 U.S.C. 773–773k.

2. In subpart E, Pacific Halibut Fisheries, § 300.63, is amended by adding paragraph (e) to read as follows:

### § 300.63 Catch sharing plans, local area management plans, and domestic management measures.

* * * * *

(e) *Prohibition on halibut fishing and anchoring in the Sitka Pinnacles Marine Reserve.* (1) For purposes of § 300.63(e), the Sitka Pinnacles Marine Reserve means an area totaling 2.5 square nm off Cape Edgecumbe, defined by straight lines connecting the following points in a counterclockwise manner:

56°55.5'N lat., 135°54.0'W long;

56°57.0'N lat., 135°54.0'W long;

56°57.0'N lat., 135°57.0'W long;

56°55.5'N lat., 135°57.0'W long.

(2) No person shall engage in sport fishing, as defined in § 300.61, for halibut within the Sitka Pinnacles Marine Reserve.

(3) No person shall anchor a vessel having halibut on board in the Sitka Pinnacles Marine Reserve.

## PART 679–FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

3. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

4. In § 679.2, a new definition for the ''Sitka Pinnacles Marine Reserve'' is added in alphabetical order, to read as follows:

**§ 679.2 Definitions.**

* * * * *

*Sitka Pinnacles Marine Reserve* means an area totaling 2.5 square nm in the GOA, off Cape Edgecumbe, in Statistical Area 650. See Figure 18 to this part.

* * * * *

5. In § 679.22, paragraph (b)(5) is added to read as follows:

**§ 679.22 Closures.**

* * * * *

(b)* * *

(5) *Sitka Pinnacles Marine Reserve.* (i) No vessel required to have a Federal fisheries permit under § 679.4(b) may fish for groundfish or anchor in the Sitka Pinnacles Marine Reserve, as described in Figure 18 to this part.

(ii) No vessel required to have on board an IFQ halibut permit under § 679.4(d) may fish for halibut or anchor in the Sitka Pinnacles Marine Reserve, as described in Figure 18 to this part.

* * * * *

6. In part 679, Figure 18 is added to read as follows:

BILLING CODE 3510–22–F

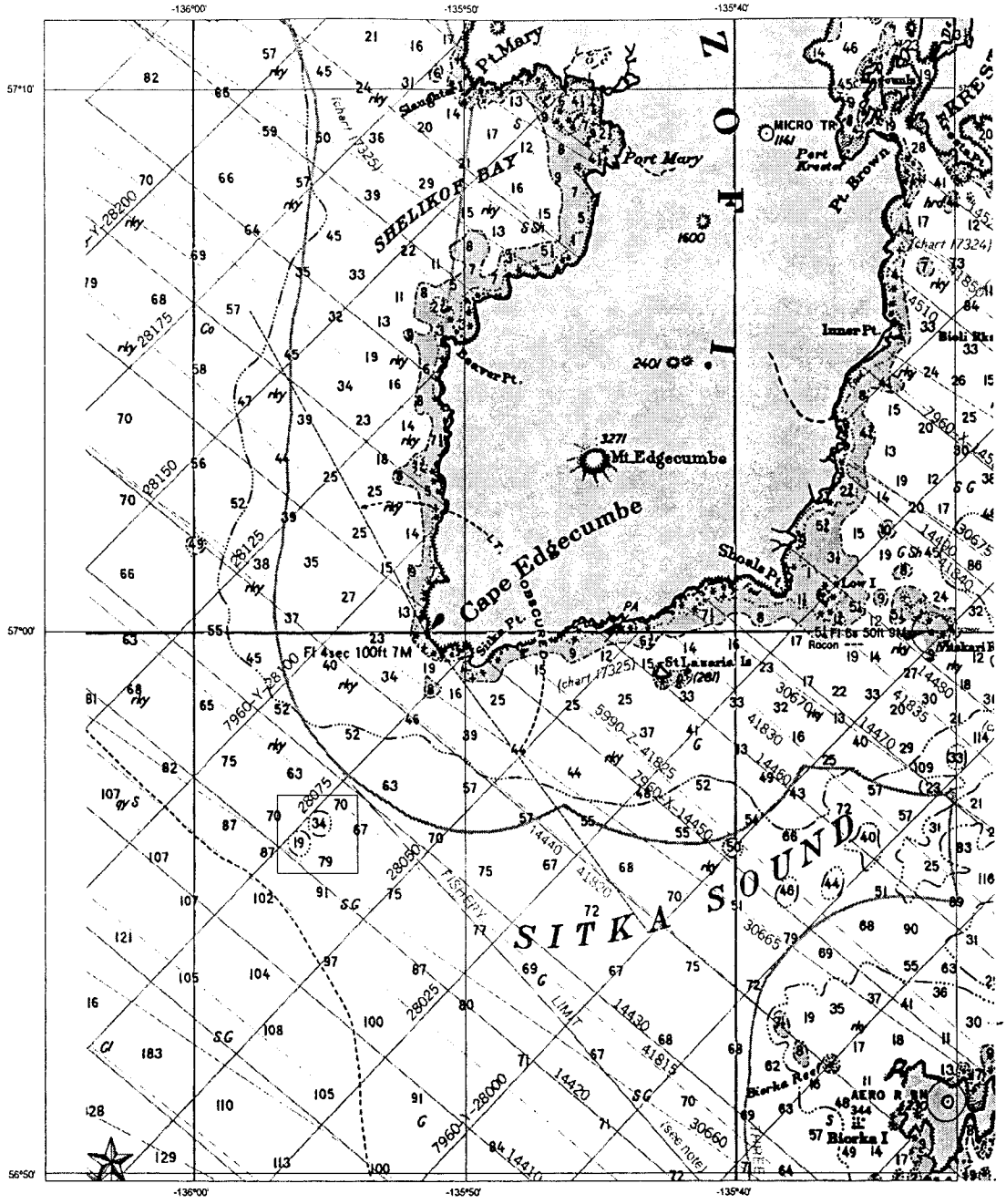


Figure 18 to Part 679. Sitka Pinnacles Marine Reserve (area enclosed within rectangle).

a. Map

b. Coordinates

An area totaling 2.5 square nm off Cape Edgecumbe, defined by straight lines connecting the following points in a counterclockwise manner:

56°55.5'N lat., 135°54.0'W long;
56°57.0'N lat., 135°54.0'W long;
56°57.0'N lat., 135°57.0'W long;
56°55.5'N lat., 135°57.0'W long.

[FR Doc. 00–16114 Filed 6–23–00; 8:45 am]
BILLING CODE 3510–22–F

# Notices

Federal Register
Vol. 65, No. 123
Monday, June 26, 2000

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.

## AFRICAN DEVELOPMENT FOUNDATION

### Sunshine Act Meeting

**TIME:** 1:00 p.m. to 3:00 p.m.
**PLACE:** ADF Headquarters.
**DATE:** Tuesday, 27 June 2000.
**STATUS:** Open.

**Agenda**

1:00 p.m. Chairman's Report
1:30 p.m. President's Report
2:30 p.m. New Business
3:00 p.m. Adjournment

If you have any questions or comments, please direct them to Dick Day, Coordinator, Office of Policy, Planning and Outreach, who can be reached at (202) 673–3916.

**William R. Ford,**
*President.*
[FR Doc. 00–16201 Filed 6–22–00; 2:17 pm]
**BILLING CODE 6116–01–P**

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### U.S. Warehouse Act Fees

**AGENCY:** Farm Service Agency, USDA.
**ACTION:** Notice.

**SUMMARY:** This notice publishes a schedule increasing the annual operational fee warehouse operators are charged under the United States Warehouse Act (USWA). This action is needed to increase the amount of revenue generated to recover operational costs projected for operations under the USWA in fiscal year 2001. This notice does not change any of the other various license or inspection fees charged under the USWA.

**EFFECTIVE DATE:** October 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Steve Mikkelsen, Deputy Director, Warehouse and Inventory Division, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 0553, Washington, DC 20250–0553, telephone (202) 720–2121 FAX: (202) 690–3123, E-Mail: Steve_Mikkelsen@wdc.fsa.usda.gov.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Secretary has the authority to license public warehouses and assess warehouse operators fees under the United States Warehouse Act (USWA) (7 U.S.C. 241 *et seq.*). Warehouse operators licensed under the USWA understand that fees will be imposed to cover the costs of the program. Specifically, section 10 of the USWA (7 U.S.C 249) mandates the imposition of fees for USWA licensed warehouses. The USWA provides for licensing warehouses, for examining licensed warehouses, and for the collection of fees to sustain the USWA warehouse licensing and examination programs. In keeping with that responsibility the Department of Agriculture's Farm Service Agency (FSA) is raising USWA annual operational fees charged to licensed warehouses in order to assure the recovery of operational costs projected for USWA activities in fiscal year 2001. The fiscal year 2001 fee adjustment reflects a 2.0 percent increase in the annual fees. No increase is being made in other license or inspection fees charged under the USWA.

USWA fees vary by the type of storage warehouse and were last amended effective October 1, 1999, (64 FR 34765, June 29, 1999). None of last year's increases for any particular type of warehouse exceeded 2.0 percent and varied based on FSA's direct costs with respect to warehouse examinations for that type of warehouse. The regulations issued under the USWA, codified at 7 CFR parts 735 through 743, provide that fees charged warehouse operators under the USWA could be adjusted annually. The schedule below sets out all of the relevant fees and charges for licensing and examination and reflects the increased annual fees noted above. USWA Schedule for License, Inspection and Annual Operational Fees to be Paid by Warehouse Operators:

#### Warehouse and Service License Fees

The fee for original issuance, reissuance, or duplication of a license for cotton, grain, tobacco, wool, dry beans, nut, syrup, and cottonseed is $80 for each license issued.

The fee charged to license individuals to inspect, sample, grade, classify, or weigh commodities is $35 for each service license issued.

#### Warehouse Annual and Inspection Fees

These fees are shown in the following tables by agricultural product. Inspection fees are assessed for each original examination or inspection, or reexamination or reinspection for modification of an existing license. Annual fees are assessed independently of inspection fees and of the license fees set forth in the preceding paragraph.

COTTON
[In bales]

| Licensed capacity | Annual fee for each warehouse location with a CCC storage agreement | Annual fee for each warehouse location without a CCC storage agreement |
|---|---|---|
| 1–20,000 | $560 | $1,115 |
| 20,001–40,000 | 730 | 1,460 |
| 40,001–60,000 | 895 | 1,790 |
| 60,001–80,000 | 1,125 | 2,245 |
| 80,001–100,000 | 1,400 | 2,800 |
| 100,001–120,000 | 1,680 | 3,355 |
| 120,001–140,000 | 1,955 | 3,915 |
| 140,001–160,000 | 2,240 | 4,475 |
| 160,001+ | * 2,240 | ** 4,475 |

* Plus $60 per 5,000 bale capacity above 160,000 bales or fraction thereof.

** Plus $110 per 5,000 bale capacity above 160,000 bales or fraction thereof.

Inspection fees will be charged at the rate of $80 for each 1,000 bales of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

GRAIN

[In bushels]

| Licensed capacity | Annual fee for each warehouse location with a CCC storage agreement | Annual fee for each warehouse location without a CCC storage agreement |
|---|---|---|
| 1–150,000 | $145 | $290 |
| 150,001–250,000 | 295 | 585 |
| 250,001–500,000 | 435 | 865 |
| 500,001–750,000 | 590 | 1,175 |
| 750,001–1,000,000 | 730 | 1,460 |
| 1,000,001–1,200,000 | 875 | 1,750 |
| 1,200,001–l,500,000 | 1,020 | 2,035 |
| 1,500,001–2,000,000 | 1,165 | 2,325 |
| 2,000,001–2,500,000 | 1,310 | 2,620 |
| 2,500,001–5,000,000 | 1,450 | 2,900 |
| 5,000,001–7,500,000 | 1,605 | 3,205 |
| 7,500,001–10,000,000 | 1,750 | 3,500 |
| 10,000,001+ | *1,750 | **3,500 |

*Plus $50 per million bushels above 10,000,000 or fraction thereof.

**Plus $90 per million bushels above 10,000,000 or fraction thereof.

Inspection fees will be charged at the rate of $16 for each 10,000 bushels of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

DRY BEANS

[In hundredweight]

| Licensed capacity | Annual fee |
|---|---|
| 100–90,000 | $800 |
| 90,001–150,000 | 1,115 |
| 150,001–300,000 | 1,445 |
| 300,001–450,000 | 1,765 |
| 450,001–600,000 | 2,080 |
| 600,001–720,000 | 2,395 |
| 720,001–900,000 | 2,725 |
| 900,001–1,200,000 | 3,045 |
| 1,200,001–1,500,000 | 3,355 |
| 1,500,001–3,000,000 | 3,675 |
| 3,000,001+ | 4,000 |

Inspection fees will be charged at the rate of $16 for each 1,000 hundredweight of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

**Tobacco and Wool**

Annual fee: $16 for each 100,000 pounds of licensed capacity, or fraction thereof, but in no case less than $645.

Inspection fee: $16 for each 100,000 pounds of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

**Nuts**

Annual fee: $14 for each 100 short tons of licensed capacity, or fraction thereof, but in no case less than $645.

Inspection fee: $8 for each 100 short tons of licensed capacity, or fraction thereof, of peanuts and $14 for each 1,000 hundredweight, or fraction thereof, of other nuts, but in no case less than $160 nor more than $1,600.

**Syrup**

Annual fee: $6 for each 5,000 gallons of licensed capacity, or fraction thereof, but in no case less than $645.

Inspection fee: $6 for each 5,000 gallons of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

**Cottonseed**

Annual fee: $16 for each 1,000 short tons of licensed capacity, or fraction thereof, but in no case less than $645.

Inspection fee: $16 for each 1,000 short tons of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

Signed at Washington, D.C., on June 19, 2000.

**George Arredondo,**

*Administrator, Farm Service Agency.*

[FR Doc. 00–16060 Filed 6–23–00; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### Action Affecting Export Privileges; David Sheldon Boone

### Order Denying Export Privileges

In the Matter of David Sheldon Boone currently incarcerated at: FCI Manchester, #43671–083, P.O. Box 3000, Manchester, Kentucky 40962.

On February 26, 1999, David Sheldon Boone (Boone) was convicted in the United States District Court for the Eastern District of Virginia on one count of violating Section 794(a) and (c) of the Espionage Act (18 U.S.C.A. 792–799) (1976 & Supp. 2000)). Boone was convicted of unlawfully and knowingly combining, conspiring, confederating and agreeing with other persons, both known and unknown, including officers of the Komitet Gosudarstvennoy Bezopasnosty (KGB), to knowingly and unlawfully communicate, deliver, and transmit, and attempt to communicate, deliver and transmit, to representatives and agents of a foreign government, specifically the U.S.S.R. and the Russian Federation, directly and indirectly, documents and information relating to the national defense of the United States, with the intent and reason to believe that the same would be used to the injury of the United States and to the advantage of the U.S.S.R. and the Russian Federation.

Section 11(H) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. sections 2401–2420 (1991 & Supp. 2000)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating Section 794 of the Espionage Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (1999), as amended (65 FR 14862, March 20, 2000)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating Section 794 of the Espionage Act, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person's export privileges for a period of up to 10 years form the date of conviction and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Boonee's conviction for violating Section 794(a) and (c) of the Espionage Act, and after providing notice and an opportunity for Boone to make a written submission to the Bureau of Export Administration before issuing an Order denying his export privileges, as provided in Section 766.25 of the Regulations, I, following consultations with the Director, Office of Export Enforcement, have decided to deny Boone's export privileges for a period of 10 years from the date of his conviction. The 10-year period ends on February 26, 2009. I have also decided to revoke all licenses issued pursuant to

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR 1996 Comp. 298 (1997)), August 13, 1997 (3 CFR 1997 Comp. 306 (1998)), August 13, 1998 (3 CFR 1998 Comp. 294 (1999)) and August 10, 1999 (3 CFR 1999 Comp. 302 (2000)), continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A 1701–1706 (1991 & Supp. 2000)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

the Act in which Boone had an interest at the time of his conviction.

Accordingly, *it is hereby ordered:*

I. Until February 26, 2009, David Sheldon Boone, currently incarcerated at: FCI Manchester, #43671–083, P.O. Box 3000, Manchester, Kentucky 40962, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or order, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the Untied States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Boone by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until February 26, 2009.

VI. In accordance with Part 756 of the Regulations, Boonee may file an appeal from this Order with the Under Secretary for Export Administration. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Boonee. This Order shall be published in the **Federal Register**.

Dated: June 13, 2000.

**Eileen M. Albanese,**

*Director, Office of Exporter Services.*

[FR Doc. 00–15993 Filed 6–23–00; 8:45 am]

BILLING CODE 3510–DT–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–560–810]**

### Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Expandable Polystyrene Resins From Indonesia

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

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Charles Riggle at (202) 482–0650 or David Layton at (202) 482–0371, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

**Preliminary Determination**

We preliminarily determine that certain expandable polystyrene resins from Indonesia are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

*Case History*

On November 22, 1999, the Department of Commerce (the Department) received petitions on certain expandable polystyrene resins (EPS) from Indonesia and the Republic of Korea (Korea) filed in proper form by BASF Corporation, Huntsman Expandable Polymers Company LC, Nova Chemicals Inc., and Styrochem U.S., Ltd., (collectively the petitioners). On December 1 and 3, 1999, the Department received amendments to the petitions.[1]

On December 13, 1999, the Department initiated antidumping investigations of EPS from Indonesia and Korea. *See Initiation of Antidumping Duty Investigations: Certain Expandable Polystyrene Resins from Indonesia and the Republic of Korea,* 64 FR 71112 (December 20, 1999) (*Initiation Notice*). Since the initiation of this investigation, the following events have occurred:

On January 7, 2000, the United States International Trade Commission (the ITC) preliminarily determined that there is a reasonable indication that imports of the subject merchandise are materially injuring the U.S. industry. *See Certain Expandable Polystyrene Resins from Indonesia and Korea,* 65 FR 2429 (January 14, 2000).

On January 13, 2000, the Department selected PT Risjad Brasali Styrindo (Brasali), the only known Indonesian producer/exporter of the subject

[1] The preliminary determination for EPS from Korea will be published in a separate **Federal Register** notice.

merchandise, as the mandatory respondent in this investigation. *See Memorandum to Gary Taverman: Selection of Respondents,* dated January 13, 2000. On January 31, 2000, the Department issued its antidumping questionnaire to Brasali. On February 16, 2000, Brasali notified the Department that it would not respond to the Department's questionnaire.

On April 13, 2000, the Department published a **Federal Register** notice postponing the deadline for the preliminary determination until June 20, 2000. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Certain Expandable Polystyrene Resins from Indonesia and the Republic of Korea,* 65 FR 19872 (April 13, 2000).

*Period of Investigation*

The period of investigation (POI) is October 1, 1998, through September 30, 1999. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* December 1999).

*Scope of Investigation*

The scope of this investigation includes certain expandable polystyrene resins in primary forms; namely, raw material or resin manufactured in the form of polystyrene beads, whether of regular (shape) type or modified (block) type, regardless of specification, having a weighted-average molecular weight of between 160,000 and 260,000, containing from 3 to 7 percent blowing agents, and having bead sizes ranging from 0.4 mm to 3 mm.

Specifically excluded from the scope of these investigations are off-grade, off-specification expandable polystyrene resins.

The covered merchandise is found in the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3903.11.00.00. Although this HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

*Facts Available*

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to section 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. In this case, as stated above, on February 16, 2000, Brasali informed us that it would not answer the Department's antidumping questionnaire. Because Brasali failed to respond to our questionnaire, pursuant to section 776(a)(2)(A) of the Act, we are required to employ facts otherwise available to determine the dumping margin for Brasali. Because Brasali has provided no information whatsoever, sections 782(d) and (e) of the Act are not applicable.

Section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994) (SAA). The statute and the SAA provide that such an adverse inference may be based on secondary information, including information drawn from the petition. Brasali's refusal to respond to the Department's antidumping questionnaire constitutes a failure to act to the best of its ability to comply with a request for information, within the meaning of section 776(b) of the Act. Accordingly, for purposes of the preliminary determination, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted with respect to Brasali.

Consistent with the Department's practice in investigations where the respondent refuses to participate by not answering the Department's questionnaire, as adverse facts available, we have determined to apply a margin based on the highest margin alleged in the petition. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat Rolled Carbon Quality Steel Products from Argentina, Japan and Thailand,* 64 FR 60410, 60414 (November 5, 1999); *Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Germany,* 63 FR 10847 (March 5, 1998).

Section 776(c) of the Act provides that, when the Department relies upon ''secondary information'' in using facts otherwise available such as the petition rates, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at the Department's disposal. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see* SAA at 870).

We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis, to the extent appropriate information was available for this purpose. *See Import Administration AD Investigation Initiation Checklist,* dated December 13, 1999, for a discussion of the margin calculations in the petition. To corroborate the rate that we are applying as adverse facts available for purposes of the preliminary determination, we examined the basis of the rates contained in the petition. The petitioners based export price (EP) on the average unit value (AUV) of the merchandise as derived from the U.S. government's IM–145 data, which we were able to corroborate with the statistical source. Normal value (NV) was based upon prices for products which are identical to the products used as the basis for the EP. We corroborated the data used by petitioners to calculate NV in a telephone conference with the market research firm responsible for gathering the data. *See Memorandum to the File, Telephone Conversation with Market Research Firm Regarding the Petition for the Imposition of Antidumping Duties,* dated December 3, 1999. Our review of the EP and NV calculations indicated that the information in the petitions has probative value, given that certain information included in the margin calculations in the petition is from public sources concurrent, for the most part, with the POI (*e.g.,* average unit values for U.S. sales). We did not receive any other information from the petitioners or other interested parties with regard to EP and NV and are aware of no other independent sources that would enable us to further corroborate the margin calculation in the petition. Accordingly, we find, for purposes of this preliminary determination, that this information is corroborated to the extent practicable, pursuant to section 776(c) of the Act.

*All Others Rate*

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable

method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the ''all others'' rate, the simple average of the margins in the petition. We have done so in this case. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada,* 64 FR 15457 (March 31, 1999); *see also Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy,* 64 FR 15458, 15459 (March 21, 1999).

*Suspension of Liquidation*

For entries of EPS from Indonesia, we are directing the U.S. Customs Service to suspend liquidation of those entries that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

| Manufacturer/exporter | Margin (percent) |
|---|---|
| PT Risjad Brasali Styrindo ..... | 96.65 |
| All Others ..... | 95.79 |

*ITC Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

*Public Comment*

Case briefs must be submitted no later than 30 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of this preliminary determination.

This determination is published pursuant to sections 733(d) and 777(i)(1) of the Act.

Dated: June 20, 2000.

**Roland L. MacDonald,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–16106 Filed 6–23–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–843]**

### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Expandable Polystyrene Resins From the Republic of Korea

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

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Valerie Ellis at (202) 482–2336 or Charles Riggle at (202) 482–0650, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

**Preliminary Determination**

We preliminarily determine that certain expandable polystyrene resins (EPS) from the Republic of Korea (Korea) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act.

*Case History*

On November 22, 1999, the Department received a petition on certain EPS from Korea filed, in proper form by BASF Corporation, Huntsman Expandable Polymers Company LC, Nova Chemicals Inc., and Styrochem U.S., Ltd., (collectively, the petitioners).[1] On December 1 and 3, 1999, the Department received amendments to the petition.

On December 13, 1999, the Department initiated an antidumping investigation of EPS from Korea. *See Initiation of Antidumping Duty Investigations: Certain Expandable Polystyrene Resins from Indonesia and the Republic of Korea,* 64 FR 71112 (December 20, 1999) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

On January 7, 2000, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the subject merchandise are materially injuring the U.S. industry. *See Certain Expandable Polystyrene Resins from Indonesia and Korea,* 65 FR 2429 (January 14, 2000).

On January 31, 2000, the Department issued antidumping questionnaires to Cheil Industries, Inc. (Cheil) and Shinho Petrochemical Co., Ltd. (Shinho). *See Selection of Respondents* section of this notice. The respondents submitted their initial responses to the questionnaire in March and April 2000. After analyzing these responses, we issued supplemental questionnaires to the respondents. We received timely responses to these supplemental questionnaires.

On April 13, 2000, the Department published a **Federal Register** notice postponing until June 20, 2000, the deadline for the preliminary determination in this and in the companion investigation involving Indonesia. *See Notice of Postponement of Preliminary Antidumping Duty*

[1] A petition was also filed at the same time on EPS from Indonesia.

*Determinations: Certain Expandable Polystyrene Resins from Indonesia and the Republic of Korea,* 65 FR 19872 (April 13, 2000). On April 13, 2000, the petitioners alleged that both Cheil and Shinho were selling EPS in the home market at prices below their respective production costs. *See Normal Value Section* below.

*Postponement of Final Determination and Extension of Provisional Measures*

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant portion of exports of the subject merchandise or, if in the event of a negative determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351. 210(e)(2), require that requests by the respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On June 6, 2000 and June 15, 2000, we received requests from the respondents for postponement of the final determination. In the request, the respondents consented to the extension of provisional measures to no longer than six months. Because the preliminary determination in this investigation is affirmative, the respondents filing the requests account for a significant proportion of exports of the subject merchandise, and there is no compelling reason to deny the respondent's request, we have extended the deadline for issuance of the final determination in this case until the 135th day after the date of publication of this preliminary determination in the **Federal Register**.

*Period of Investigation*

The period of investigation (POI) is October 1, 1998, through September 30, 1999. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, December 1999).

*Scope of Investigation*

The scope of this investigation includes certain EPS in primary forms; namely, raw material or resin manufactured in the form of polystyrene beads, whether of regular (shape) type or modified (block) type, regardless of specification, having a weighted-average molecular weight of between 160,000 and 260,000, containing from 3 to 7 percent blowing agents, and having bead sizes ranging from 0.4 mm to 3 mm.

Specifically excluded from the scope of this investigation are off-grade, off-specification expandable polystyrene resins.

The covered merchandise is found in the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3903.11.00.00. Although this HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

*Selection of Respondents*

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can be reasonably examined.

We examined producer-specific data accounting for total POI exports of EPS resin from Korea. We identified five companies who exported EPS to the U.S. during the POI. Due to constraints on our time and resources, we found it impracticable to examine all five of them. Therefore, because their combined export volume accounted for the vast majority of all exports from Korea, we selected Cheil and Shinho as the mandatory respondents. For a more detailed discussion of respondent selection in this investigation, *see Memorandum to Gary Taverman: Selection of Respondents*, dated January 13, 2000.

*Product Comparisons*

Pursuant to section 771(16) of the Act, all products produced by the respondents that are within the scope of the investigation and were sold in the comparison market during the POI were considered to be foreign like products. We have relied on six criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: color, whether modified with flame retardants, expected minimum density, bead size, blowing agent level and molecular weight. In this case, for all sales comparisons, we have relied on matches of identical merchandise.

*Fair Value Comparisons*

To determine whether sales of EPS from Korea were made in the United States at LTFV, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the *Export Price and Constructed Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated POI weighted-average EPs and CEPs for comparison to POI weighted-average NVs.

*Export Price and Constructed Export Price*

In accordance with section 772 of the Act, we calculated either EP or CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act.

We made company-specific adjustments as follows:

Cheil

We based EP and CEP on CIF and FOB prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses including international freight, U.S. customs duties, and miscellaneous movement charges.

We have reclassified as CEP sales all sales of subject merchandise involving ''commissionaires'' because the sale to the first unaffiliated customer (which is facilitated by the commissionaire) is made in the United States. Accordingly, as the starting price, we have relied on the invoice price charged to the first

unaffiliated customer by the commissionaire.[2]

For sales through commissionaires, we have reduced the starting price by the amount of commissions charged by the commissionaires to Cheil, as well as the other expenses incurred by the commissionaire which were not included in the commission (*i.e.*, additional expenses which were paid by Cheil). Consistent with the Department's past practice, we have not made a deduction for CEP profit, because the commissions charged by the commissionaires include an amount for the commissionaire's profit. *See Fresh Atlantic Salmon from Chile; Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination (Salmon)* 63 FR 2664, 2667 (January 16, 1998) and *Certain Fresh Cut Flowers from Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review (Flowers)*, 62 FR 53287, 53295 (October 14, 1997). Finally, pursuant to section 772(d)(1) of the Act, we reduced the CEP by the amount of credit expenses.

We note that evidence on the record in this investigation indicates that Cheil and one of its commissionaires, Samsung America, Inc. (SAI), may be affiliated. Both companies are members of the Samsung Group, and Cheil stated that it shared common directors with the parent company of SAI. While we intend to examine this issue further, for the preliminary determination we have treated Cheil and SAI as unaffiliated.

Shinho

We based EP on FOB and CFR prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses including international freight, U.S. customs duty, and miscellaneous movement charges.

[2] We have not, as proposed by Cheil, used as the starting price the amount invoiced by the respondent to the commissionaires. The Department does not typically consider a commissionaire to be the respondent's customer, since the commissionaire simply facilitates a transaction between the respondent and its actual customer. In fact, the Department applied adverse facts available in the case of a respondent that had reported U.S. sales to a company that, as was determined at verification, was a commissionaire. In that case, the Department stated that the respondent should have reported the sale to the actual customer, and made an adverse inference due to the respondent's failure to do so. *See Certain Welded Stainless Pipe from Taiwan* 62 FR 37543, 37544 (July 14, 1997). In this case, the commissionaires' role in the sale of the product is to facilitate matters such as receiving orders, invoicing and collection of payment. The respondent negotiates terms directly with its actual customers, ships the merchandise directly to the customers, and handles all after-sale inquiries.

*Normal Value*

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. Both respondents had viable home markets, and they reported home market sales data for purposes of the calculation of NV. Adjustments made in deriving the NVs for each company are described in detail in *Calculation of Normal Value Based on Home Market Prices* and *Calculation of Normal Value Based on Constructed Value*, below.

B. Cost of Production Analysis

Based on allegations originally submitted by the petitioners on April, 13, 2000, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that EPS sales made in Korea were made at prices below the cost of production (COP). *See Memorandum to Gary Taverman, Petitioners' Allegation of Sales Below Cost of Production for Cheil Industries, Inc.*, May 12, 2000 and *Memorandum to Gary Taverman, Petitioners' Allegation of Sales Below Cost of Production for Shinho Petrochemical Co, Ltd.*, May 12, 2000. As a result, the Department is conducting an investigation to determine whether the respondents made sales in the home market at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. Given that the responses to the COP section of the questionnaire are not due until June 23, 2000, we will include our analysis of sales below cost in our final determination.

C. Calculation of Normal Value Based on Home Market Prices

Cheil

We calculated NV based on delivered prices and made deductions from the starting price, where appropriate, for inland freight. In addition, we made circumstance of sale (COS) adjustments for direct expenses (*i.e.*, credit expenses), in accordance with section 773(a)(6)(C)(iii) of the Act.

Shinho

We calculated NV based on delivered prices and made deductions from the starting price, where appropriate, for inland freight. In addition, we made COS adjustments for direct expenses (*i.e.*, credit expenses), in accordance with section 773(a)(6)(C)(iii) of the Act. Although Shinho claimed to have short-term borrowing during part of the POI, we found that when Shinho was reorganized in October 1998, only eight days after the beginning of the POI, all of the company's short-term debt was converted to long-term debt. No documentation was provided to support the short-term interest rate claimed by Shinho, and we were unable to confirm either that rate, or the existence of any short-term borrowing, in Shinho's audited financial statements. Accordingly, we recalculated Shinho's imputed home market credit using a published rate from the June 2000 issue of *International Financial Statistics*, published by the International Monetary Fund. For a more detailed discussion of Shinho's imputed credit rate, see *Calculation Memorandum to Charles Riggle* dated June 20, 2000.

D. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (CV), that of the sales from which we derive SG&A expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment pursuant to section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price

comparability, we adjust NV pursuant to section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

In implementing these principles in this investigation, we examined information from the respondent regarding the marketing stages involved in the reported home market, EP and CEP sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying levels of trade for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit pursuant to section 772(d) of the Act.

*Cheil.* In the home market, Cheil reported only one channel of distribution, which was to end users. In the U.S. market, Cheil reported sales through two channels of distribution, one involving sales to a distributor and the second involving sales to end users through commissionaires.

In determining whether separate levels of trade actually existed between the U.S. EP sales and home market sales, we examined the chains of distribution and customer categories reported in the home market and in the United States. Cheil's sales to end users in the home market and to the United States appear to be made at different points in the chain of distribution. We further examined the selling functions related to those sales. Cheil arranged inland Korean freight and provided technical services and warranties for the end user customers in the home market and the distributor in the U.S. market. For the home market customers, Cheil also made frequent contacts and visits and provided inventory maintenance to end user customers in the home market. On this basis, it appears that the LOT of Cheil's home market sales involves significantly more selling functions than the LOT of the EP sales, and that the distinctions constitute a difference in level of trade between sales in the two markets. Nonetheless, we are unable to make a LOT adjustment. This is due to the fact that there is only one LOT for home market sales. Cheil does not sell subject merchandise in the home market at the same LOT as that of its EP sales, and there are no other data on the record that would allow the Department to establish whether there is a pattern of consistent price differences between sales at different levels of trade in the comparison market. Therefore, an LOT adjustment is not possible for comparisons of EP sales to home market sales.

Cheil also made CEP sales through its commissionaires to end-users. In determining whether separate levels of trade actually existed between the U.S. CEP sales and home market sales, we examined the chains of distribution and customer categories reported in the home market and in the United States. Cheil's sales to end users in the home market and the importers/commissionaires in the U.S. market appear to be made at different points of the chain of distribution. We further examined the selling functions related to these sales. As noted above, in determining levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. Cheil arranges for Korean inland freight and provides frequent contacts and visits for U.S. end user customers involved in the CEP transactions and for home market end users. It also provides warranties, technical advice and arrangements for freight to end user customers in both markets. After making CEP deductions from the end user price, we have effectively deducted the portion of the price which accounts for the following services to the end users involved in CEP sales: the provision of warranties and technical advice and frequent contacts and visits with end user customers. At the CEP level, the only remaining selling function is Cheil's arrangement of Korean inland freight. On this basis, we found that the LOT of Cheil's home market sales involves significantly more selling functions than the LOT of the CEP sales.

Based on our review of the selling functions related to CEP and home market sales, we have determined that Cheil's home market sales are made at a different, and more advanced, stage of marketing than the LOT of the CEP sales. Nonetheless, we are unable to make a LOT adjustment. This is due to the fact that there is only one LOT for home market sales. Cheil does not sell subject merchandise in the home market at the same LOT as that of the CEP, and there are no other data on the record that would allow the Department to establish whether there is a pattern of consistent price differences between sales at different levels of trade in the comparison market. Accordingly, while we determined that a LOT adjustment may be appropriate for CEP sales, for the reasons stated above, we are unable to make such an adjustment. Instead, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act. This offset is equal to the amount of indirect expenses incurred in the comparison market not exceeding the amount of the deductions made from the U.S. price in accordance with 772(d)(1)(D) of the Act.

*Shinho.* In the home market, Shinho reported sales to end users as its only channel of distribution. In the U.S. market, Shinho reported sales to distributors as its only channel of distribution.

Shinho has claimed that its home market sales, which are all made to end-users, are at a different, more advanced LOT than the company's EP sales to distributors. For EP sales, Shinho processes orders and provides partial arrangements for the freight. For home market sales, Shinho processes orders and provides partial arrangements for freight. It also provides for some financing and some limited technical services for home market sales. At this time, we do not have enough information to determine whether home market sales were made at a different LOT than the EP sales. However, even if we were able to determine that Shinho's home market sales are made at a different LOT than the EP sales, we would be unable to make a LOT adjustment. This is due to the fact that there is only one LOT for home market sales. Shinho does not sell subject merchandise in the home market at the same LOT as that of its EP sales, and there are no other data on the record that would allow the Department to establish whether there is a pattern of consistent price differences between sales at different levels of trade in the comparison market. Therefore, a LOT adjustment is not possible for comparisons of EP sales to home market sales.

*Currency Conversions*

We made currency conversions in accordance with section 773A of the Act. The Department's preferred source for daily exchange rates is the Federal Reserve Bank. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice.

*Verification*

In accordance with section 782(i) of the Act, we intend to verify information to be used in making our final determination.

*Suspension of Liquidation*

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of EPS from the Republic of Korea, except for Cheil (which has a *de minimis* weighted-average margin), that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

| Exporter/producer | Weighted-average margin percentage |
|---|---|
| Cheil | 1.80 |
| Shinho | 5.14 |
| All Others | 5.14 |

[1] De minimis.

Section 735(c)(5)(A) of the Act directs the Department to exclude all zero and de minimis weighted-average dumping margins, as well as dumping margins determined entirely under facts available under section 776 of the Act, from the calculation of the ''All Others'' rate. Accordingly, we have excluded the *de minimis* dumping margin for Cheil from the calculation of the ''all others'' rate.

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

*Public Comment*

For the investigation of EPS from Korea, case briefs must be submitted no later than 30 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the date of publication of this notice.

This determination is issued and published pursuant to sections 733(d) and 777(i)(1) of the Act.

Dated:June 20, 2000.

**Roland L. MacDonald,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–16107 Filed 6–23–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–423–602]**

### Notice of Preliminary Results of Antidumping Duty Administrative Review: Industrial Phosphoric Acid From Belgium

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to requests from petitioner and one domestic producer, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on industrial phosphoric acid (''IPA'') from Belgium. The period of review (''POR'') is August 1, 1998, through July 31, 1999. This review covers imports of IPA from one producer, Societe Chimique Prayon-Rupel S.A. (''Prayon'').

We have preliminarily determined the dumping margin for Prayon to be 1.82 percent during the period August 1, 1998, through July 31, 1999. Interested parties are invited to comment on these preliminary results. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Frank Thomson or Jim Terpstra, AD/CVD Enforcement, Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4793, and 482–3965, respectively.

**SUPPLEMENTARY INFORMATION:**

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations at 19 CFR Part 351 (1999).

#### Background

On August 20, 1987, the Department published in the **Federal Register** (52 FR 31439) the antidumping duty order on IPA from Belgium. On August 11, 1999, the Department published in the **Federal Register** (64 FR 43649) a notice of opportunity to request an administrative review of this antidumping duty order. On August 30, 1999, in accordance with 19 CFR 351.213(b)(1), the petitioner FMC Corporation (''FMC''), and Albright & Wilson Americas Inc. (''Wilson''), a domestic producer of the subject merchandise, requested that the Department conduct an administrative review of Prayon's exports of subject merchandise to the United States. We published the notice of initiation of this

review on October 1, 1999 (64 FR 53318).

**Scope of the Review**

The products covered by this review include shipments of IPA from Belgium. This merchandise is currently classifiable under the Harmonized Tariff Schedule (''HTS'') item numbers 2809.2000 and 4163.0000. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

**Verification**

As provided in section 782(i) of the Act, we conducted verification of the information provided by Prayon. We used standard verification procedures, including examination of relevant sales and financial records and selection of relevant source documentation as exhibits. Our verification findings are detailed in the memoranda dated June 16, 2000, the public versions of which are on file in the Central Records Unit, Room B–099 of the Main Commerce building (''CRU-Public File'').

**Product Comparisons**

The IPA exported by Prayon to the United States is PRAYPHOS P5, a refined IPA, and is the identical merchandise sold by Prayon in its home market in Belgium. Therefore, we have compared U.S. sales to contemporaneous sales of identical merchandise in Belgium.

**Constructed Export Price**

Prayon sells to end-users in the United States through its affiliated sales agent, Quadra Corporation (''Quadra''). The sales documentation on the record in this proceeding indicates that Prayon's U.S. sales occurred in the United States between Quadra and the unaffiliated U.S. purchaser. Specifically, we have found the following facts: (1) Quadra contacts the U.S. customer and discusses prices, (2) there is a contract between Quadra and the U.S. customers, (3) Quadra arranges for shipping and other services, (4) Quadra issues the invoice to the U.S. customer, and (5) Quadra accepts payment from the U.S. customer. Given these facts, we preliminarily determine that these sales were made in the United States by a seller affiliated with the producer and, thus, should be treated as constructed export price (''CEP'') transactions (*see Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea, Final Results of Administrative Review,* 65 FR 13359 (March 13, 2000) and accompanying Decision Memorandum at Comment 12; and *Porcelain-on-Steel Cookware from Mexico, Final Results of Administrative Review,* 65 FR 30068 (May 10, 2000) and accompanying Decision Memorandum at Comment 2) (*''Porcelain-on-Steel Cookware from Mexico''*).

We based CEP on the delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, inland insurance, foreign brokerage and handling, cost of wharfage, storing and handling in Canada, ocean freight, U.S. customs duties (including brokerage and merchandise processing fees), and U.S. inland freight expenses (freight from warehouse to the customer). In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions and credit expenses), inventory carrying costs, and other indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

**Normal Value**

We compared the aggregate quantity of home market and U.S. sales and determined that the quantity of the company's sales in its home market was more than five percent of the quantity of its sales to the U.S. market. Consequently, in accordance with section 773(a)(1)(B) of the Act, we based normal value (''NV'') on home market sales.

However, we excluded from our NV analysis sales to affiliated home market customers where the weighted-average sales prices to the affiliated party was less than 99.5 percent of the weighted-average sales price to unaffiliated parties. *See Usinor Sacilor* v. *United States,* 872 F. Supp. 1000, 1004 (CIT 1994).

We calculated monthly weighted-average NVs based on ex-works or delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length prices. We made adjustments to the starting price, where appropriate, for billing adjustments. We made deductions, where appropriate, from the starting price for early payment discounts, inland insurance, and inland freight. We made circumstance of sale (''COS'') adjustments, in accordance with section 773(a)(6)(c)(iii) of the Act, for direct selling expenses, including credit expenses.

**Level of Trade**

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the export price (''EP'') or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (''CV''), that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit. With respect to U.S. price and CEP transactions, the LOT is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level, and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731 (November 19, 1997).*

Prayon reported two customer categories (*i.e.,* end-users and distributors) and three channels of distribution in the home market (*i.e.,* sales made by Prayon directly to end-users (Channel 1), sales from Prayon through its affiliated sales agent, Zinchem Benelux, to end-users (Channel 2), and sales from Prayon through Zinchem Benelux, to distributors (Channel 3)).

Based upon an analysis of the information provided on the record, we conclude that there is no difference in the selling functions performed by Prayon in making sales through these three channels of distribution. Therefore, using the information on the record, the Department preliminarily determines that Prayon makes all sales at the same LOT in the home market (*see Preliminary Determination: Level of Trade Analysis. (''Preliminary LOT Memorandum'')* from Frank Thomson,

Import Compliance Specialist, through James Terpstra, Program Manager, to the File, dated June 19, 2000, on file in the CRU).

Prayon reported only one LOT in the United States during the POR. This LOT involved one channel of distribution: sales made by Prayon through its affiliated sales agent, Quadra, to end-users (Channel 1).

In order to determine whether sales in the United States are at a different LOT than sales in the home market, we reviewed the selling activities associated with each channel of distribution. We compared the selling activities between Prayon and Quadra on U.S. CEP transactions, after all relevant deductions under section 772(d) of the Act, to the selling activities performed for the home market LOT sales by Prayon. We found that fewer and different selling functions were performed for Prayon's CEP sales than for sales at the home market LOT, and that the totality of these differences constitutes a difference in LOT. *See* the *Preliminary LOT Memorandum* for a detailed explanation of the above.

Therefore, we examined whether a LOT adjustment was appropriate. The Department makes this adjustment when it is demonstrated that a difference in LOTs affects price comparability. *See* Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316 at 829–830 (1994) (hereinafter, the ''SAA''). However, where the available data do not provide an appropriate basis upon which to determine a LOT adjustment, and where the NV is established at a LOT that is at a more advanced stage of distribution than the LOT of the CEP transactions, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision).

As discussed above, we preliminarily find that all respondent's home market sales are made at the same LOT. Further, we find that the home market LOT is different from the U.S. LOT. Finally, because of the significantly larger amount of selling activities performed, we found that the home market sales were at a more advanced stage of distribution compared to sales made at the U.S. LOT. Further, the data available do not provide an appropriate basis upon which to determine a LOT adjustment. Accordingly, we granted a CEP offset for all sales by Prayon in Belgium which are compared with CEP sales in the United States. We applied the CEP offset to NV, as appropriate. *See* the *Preliminary LOT Memorandum* for a detailed explanation of the above.

**Commissions**

The Department operates under the assumption that commission payments to affiliated parties (in either the United States or home market) are not at arm's length. The Court of International Trade has held that this is a reasonable assumption. *See Outokumpu Copper Rolled Products AB* v. *United States,* 850 F. Supp. 16, 22 (CIT 1994). Accordingly, the Department has established guidelines to determine whether affiliated party commissions are paid on an arm's-length basis such that an adjustment for such commissions can be made. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan,* 61 FR 57629 (November 7, 1996).

First, we compare the commissions paid to affiliated and unaffiliated sales agents in the same market. If there are no commissions paid to unaffiliated parties, we then compare the commissions earned by the affiliated selling agent on sales of merchandise produced by the respondent to commissions earned on sales of merchandise produced by unaffiliated sellers or manufacturers. If there is no benchmark which can be used to determine whether the affiliated party commission is an arm's-length value (*i.e.,* the producer does not use an unaffiliated selling agent and the affiliated selling agent does not sell subject merchandise for an unaffiliated producer), the Department assumes that the affiliated party commissions are not paid on an arm's-length basis.

In this case, Prayon used an affiliated sales agent in the home market. In its January 20, 2000, response, Prayon submitted its commission rates paid to its affiliated sales agent in the home market. We issued a supplemental questionnaire to Prayon, requesting that it indicate whether the commissions were paid at arm's length by reference to commission payments to unaffiliated parties in the foreign market and other markets, and to submit evidence demonstrating the arm's-length nature of the commissions. Prayon then submitted documentation illustrating its commission rates with unaffiliated parties in other markets, including Europe, North America, and South America. We examined Prayon's submitted rates with its unaffiliated agents throughout Europe to compare its affiliated commission rate in Belgium. Our examination of Prayon's unaffiliated European market commission rates indicate that these rates are comparable to its affiliated party commission rate.

As a consequence, our preliminary analysis of the submitted documentation indicates that the affiliated commissions in the home market are made at arm's length. Therefore, for purposes of the preliminary determination, we are accepting Prayon's reported home market commissions. Accordingly, we preliminarily determine to make a COS adjustment for commissions in the home market.

**Currency Conversion**

Pursuant to section 773A(a) of the Act, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

**Preliminary Results of the Review**

As a result of this review, we preliminarily determine that a 0.60 percent dumping margin exists for Prayon for the period August 1, 1998, through July 31, 1999.

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Further, we would appreciate it if parties submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Upon completion of this administrative review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated Prayon's duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of examined sales. The rate will be assessed uniformly on

all entries made during the POR. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of IPA from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Prayon will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (''LTFV'') investigation or a previous review, the cash deposit will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 14.67 percent, the ''all-others'' rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of administrative review for a subsequent review period.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 19, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–16105 Filed 6–23–00; 8:45 am]

**BILLING CODE 3510–DS–U**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–201–827]**

### Notice of Final Determination of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Mexico

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

**ACTION:** Notice of Sales at Less than Fair Value.

**SUMMARY:** On February 4, 2000, the Department of Commerce (''the Department'') published its preliminary determination of sales at less than fair value of certain large diameter carbon and alloy seamless standard, line and pressure pipe (''large diameter seamless pipe'') from Mexico. The investigation covers one manufacturer/exporter, Tubos de Acero de Mexico, S.A. (''TAMSA''). The period of investigation (''POI'') is April 1, 1998, through March 31, 1999.

Based on our analysis of comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margin for the investigated company is listed below in the ''*Continuation of Suspension of Liquidation*'' section of this notice.

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Russell Morris or Geoffrey Craig, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1775 or (202) 482–4161, respectively.

**SUPPLEMENTARY INFORMATION:**

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

#### Case History

Since the preliminary determination (*see* 65 FR 5587 (February 4, 2000) (''*Preliminary Determination*'')), the following events have occurred:

- On February 11, 2000, the petitioners [1] submitted ministerial error allegations. The Department accepted the clerical errors and corrected the margin calculation program where it deemed necessary and published a *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Mexico,* 65 FR 13715 (March 14, 2000).
- The Department verified the responses of TAMSA, in Veracruz, Mexico from February 21 through February 25, 2000, and in Houston, Texas from March 1 through March 3, 2000. (see the ''*Verification*'' section below).
- On April 26, 2000, the petitioners requested that the Department amend the scope to exclude certain line and riser pipe for use exclusively in deepwater applications and the Department accepted the revised scope language. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and the Republic of South Africa,* 65 FR 25907 (May 4, 2000).
- TAMSA and the petitioners filed case and rebuttal briefs on May 1, 2000 and May 8, 2000, respectively.
- On May 15, 2000, we rejected portions of TAMSA's rebuttal brief on the grounds that it contained new factual information. On May 16, 2000, TAMSA resubmitted its rebuttal brief in accordance with the Department's instructions.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation, as well as certain other findings by the Department which are summarized in this notice, are addressed in the ''Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico'April 1, 1998, through March 31, 1999'' (''Decision Memorandum''), from Holly A. Kuga, Acting Deputy Assistant Secretary, Import

[1] The petitioners in this investigation are: U.S. Steel Group, Lorain Tubular Co. LLC (both units of USX Corp.), and the United Steel Workers of America.

Administration, to Richard W. Moreland, Acting Assistant Secretary for Import Administration, dated June 19, 2000, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public Decision Memorandum which is on file in the Central Records Unit, of the main Department building (''Room B–099''). In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at: www.ita.doc.gov/import_admin/records/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

**Scope of Investigation**

The products covered by the investigation are large diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes.

For a complete description of the scope of this investigation, see the ''*Scope of Investigation*'' section of the Decision Memorandum. The scope of the investigation has been amended since the *Preliminary Determination*.

**Product Comparisons**

We compared the products sold by the respondent in the comparison market during the POI to the products sold in the United States during the POI using the methodology described in the *Preliminary Determination*.

**Fair Value Comparisons**

To determine whether sales of large diameter seamless pipe from Mexico were made in the United States at less than fair value, we compared constructed export price (''CEP'') to the normal value (''NV''). Our calculations followed the methodologies described in the *Preliminary Determination,* except as noted below and in the ''Final Determination Calculation Memorandum for the Investigation of Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico (''Calculation Memorandum''), from Russell Morris, Case Analyst, to John Brinkmann, Program Manager, dated June 16, 2000, which has been placed in the file in Room B–099.

*1. CEP*

For the price to the United States, we used CEP as defined in section 772 of the Act. We calculated CEP based on the same methodology as in the *Preliminary Determination,* with the following exceptions:

The petitioners, in their case brief, alleged certain errors concerning the merchandise processing fee and inland freight expenses. See Comments 5 and 6, respectively, of the Decision Memorandum for a further discussion. We accepted their allegations and made the respective adjustments in the CEP calculation.

*2. NV*

We used the same methodology to calculate NV as that described in the *Preliminary Determination,* with the following exception:

The petitioners, in their case brief, alleged an error concerning the variable cost of manufacturing. See Comment 3 of the Decision Memorandum for a further discussion. We accepted their allegation and made the adjustment in the NV calculation.

*3. Level of Trade Analysis*

We made the same level of trade determinations described in the *Preliminary Determination.*

**Currency Conversion**

We made currency conversions in accordance with section 773A of the Act in the same manner as in the *Preliminary Determination.*

**Verification**

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend the liquidation of all entries of large diameter seamless pipe from Mexico that are entered, or withdrawn from warehouse, for consumption on or after February 4, 2000, the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Tubos de Acero de Mexico ..... | 19.65 |
| All Others ..... | 19.65 |

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: June 19, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

**Appendix—List of Comments and Issues in the Decision Memorandum**

Comment 1: Coding of U.S. Market Products
Comment 2: Date of Sale Methodology
Comment 3: Variable Cost of Manufacture
Comment 4: Direct Selling Expenses
Comment 5: Merchandise Processing Fee
Comment 6: U.S. Inland Freight Expenses
Comment 7: Unreported U.S. Sales
Comment 8: Short-Term Borrowing Rate
Comment 9: Calculation of Credit Expense
Comment 10: Export Price (''EP'')/ Constructed Export Price (''CEP'') Sales Classification
Comment 11: CEP Profit Calculation

[FR Doc. 00–16102 Filed 6–23–00; 8:45 am]

BILLING CODE 3510–DS–P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A–588–850, A–588–851, A–791–808]**

## Notice of Antidumping Duty Orders: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and the Republic of South Africa

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

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Charles Riggle at (202) 482–0650 or Constance Handley at (202) 482–0631, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

*Scope of Orders*

*Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe*

For purposes of the large diameter seamless pipe order, the products covered are large diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes produced, or equivalent, to the American Society for Testing and Materials (ASTM) A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and the American Petroleum Institute (API) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this order also includes all other products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification, with the exception of the exclusions discussed below. Specifically included within the scope of this order are seamless pipes greater than 4.5 inches (114.3 mm) up to and including 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to this order are currently classifiable under the subheadings 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.31.60.50, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.60, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (HTSUS).

Specifications, Characteristics, and Uses: Large diameter seamless pipe is used primarily for line applications such as oil, gas, or water pipeline, or utility distribution systems. Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes in large diameters is for use as oil and gas distribution lines for commercial applications. A more minor application for large diameter seamless pipes is for use in pressure piping systems by refineries, petrochemical plants, and chemical plants, as well as in power generation plants and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

The scope of this order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the exclusions discussed below, whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of this order. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252,

ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of this order.

Specifically excluded from the scope of this order are:

A. Boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications.

B. Finished and unfinished oil country tubular goods (OCTG), if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

C. Products produced to the A–335 specification unless they are used in an application that would normally utilize ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications.

D. Line and riser pipe for deepwater application, *i.e.,* line and riser pipe that is (1) used in a deepwater application, which means for use in water depths of 1,500 feet or more; (2) intended for use in and is actually used for a specific deepwater project; (3) rated for a specified minimum yield strength of not less than 60,000 psi; and (4) not identified or certified through the use of a monogram, stencil, or otherwise marked with an API specification (*e.g.,* ''API 5L'').

With regard to the excluded products listed above, the Department will not instruct Customs to require end-use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being utilized in a covered application. If such information is provided, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in a covered application as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–335 specification is being used in an A–106 application, we will require end-use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

*Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe*

For purposes of the small diameter seamless pipe order, the products covered are seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and the API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of these orders also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope of these orders are seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to these orders are currently classifiable under the subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the HTSUS.

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various ASME code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes is in pressure piping systems by refineries, petrochemical plants, and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or ''hollow profiles'' of carbon or alloy steel transformed by hot rolling or cold drawing/hydrostatic testing or other methods to enable the material to

be sold under ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications.

The scope of these orders includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the specific exclusions discussed below, and whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of these orders. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, with the exception of the specific exclusions discussed below, such products are covered by the scope of these orders.

Specifically excluded from the scope of these orders are boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished OCTG are excluded from the scope of these orders, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

With regard to the excluded products listed above, the Department will not instruct Customs to require end-use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being used in a covered application. If such information is provided, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in covered applications as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–161 specification is being used in a standard, line or pressure application, we will require end-use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

*Antidumping Duty Orders*

On June 16, 2000, in accordance with section 735(d) of the Act, the International Trade Commission (ITC) notified the Department that a U.S. industry is materially injured within the meaning of section 735(b)(1)(A) of the Act by reason of imports of certain large diameter carbon and alloy seamless standard, line and pressure pipe from Japan; and certain small diameter carbon and alloy seamless standard, line and pressure pipe from Japan and the Republic of South Africa (South Africa). In addition, with respect to imports of subject merchandise from Japan, the ITC found that critical circumstances do not exist.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the United States Customs Service (U.S. Customs) to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of large and small diameter carbon and alloy seamless standard, line and pressure pipe from Japan and South Africa. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after December 14, 1999, the date of publication of the preliminary determinations in the **Federal Register**. Because the ITC did not find that critical circumstances exist with respect to imports of certain small diameter carbon and alloy seamless standard, line and pressure pipe from Japan and South Africa,[1] the Department will direct U.S. Customs to refund all cash deposits and release all bonds, collected on imports of those products entered, or withdrawn from warehouse, during the 90-day period prior to the publication of the preliminary antidumping duty determinations (*i.e.,* from September 15, 1999, through December 13, 1999). On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits based on the rates listed below.

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Japan—large diameter: | |
| Nippon Steel Corporation .. | 107.80 |
| Kawasaki Steel Corporation ..... | 107.80 |
| Sumitomo Metal Industries | 107.80 |
| All Others ..... | 68.88 |
| Japan—small diameter: | |
| Nippon Steel Corporation .. | 106.07 |
| Kawasaki Steel Corporation ..... | 106.07 |
| Sumitomo Metal Industries | 106.07 |
| All Others ..... | 70.43 |
| South Africa—small diameter: | |
| Iscor Ltd. ..... | 43.51 |
| All Others ..... | 40.17 |

This notice constitutes the antidumping duty orders with respect to certain large diameter carbon and alloy seamless standard, line and pressure pipe from Japan; and certain small diameter carbon and alloy seamless standard, line and pressure pipe from Japan and the Republic of South Africa, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: June 19, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–16104 Filed 6–23–00; 8:45 am]

**BILLING CODE 3510–DS–P**

[1] Critical circumstances were not alleged in the investigation of certain large diameter carbon and alloy seamless standard line and pressure pipe from Japan.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–851–802]**

### Notice of Final Determination of Sales at Less Than Fair Value: Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from the Czech Republic

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

**ACTION:** Notice of Final Determination of Sales at Less Than Fair Value.

**SUMMARY:** On February 4, 2000, the Department of Commerce (''the Department'') published its preliminary determination of sales at less than fair value of certain small diameter carbon and alloy seamless standard, line, and pressure pipe (''small diameter seamless pipe'') from the Czech Republic. The investigation covers Nova Hut, a.s. (''Nova Hut''). The period of investigation (''POI'') is April 1, 1998, through March 31, 1999.

Based on our analysis of comments received, we have made changes to the margin based on adverse facts available. Therefore, the final determination differs from the preliminary determination. The final dumping margin for the investigated company is listed below in the ''*Continuation of Suspension of Liquidation*'' section of this notice.

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann or Dennis McClure, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4126 or (202) 482–0984, respectively.

**SUPPLEMENTARY INFORMATION:**

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

#### Case History

Since the preliminary determination (*see* 65 FR 5599 (February 4, 2000) (''*Preliminary Determination*'')), the following events have occurred:

- On February 10, 2000, the petitioners [1] and Nova Hut submitted ministerial error allegations regarding the *Preliminary Determination.* The Department accepted the clerical errors and corrected the margin calculation program where it deemed necessary and published a *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from the Czech Republic*, 65 FR 12971 (March 10, 2000).
- On March 8, 2000, the Department issued a supplemental questionnaire to Nova Hut relating to product characteristics.
- On March 8, 2000, Nova Hut notified the Department of its withdrawal from verification.
- On March 30, 2000, the petitioners and Nova Hut submitted their case briefs.
- On April 7, 2000, the petitioners and Nova Hut submitted their rebuttal briefs.
- On April 18, 2000, the petitioners alleged that critical circumstances exist with respect to imports of small diameter seamless pipe from the Czech Republic.
- On April 28, 2000, the Department denied Nova Hut's February 15, 2000, request to rescind the investigation on small diameter seamless pipe from the Czech Republic.
- On May 18, 2000, the Department preliminarily determined that critical circumstances exist with respect to imports from the Czech Republic of small diameter seamless pipe produced by Nova Hut.[2]

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation, as well as certain other findings by the Department which are summarized in this notice, are addressed in the ''Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from the Czech Republic—April 1, 1998, through March 31, 1999'' (''Decision Memorandum''), from Holly A. Kuga, Acting Deputy Assistant Secretary, Import Administration, to Richard W. Moreland, Acting Assistant Secretary for Import Administration, dated June 19, 2000, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public Decision Memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building (''Room B–099'').

In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at www.ita.doc.gov/import_admin/records/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Scope of Investigation

The products covered by the investigation are certain small diameter carbon and alloy seamless standard, line, and pressure pipe from the Czech Republic. For a complete description of the scope of this investigation, see the ''*Scope of Investigation*'' section of the Decision Memorandum, which is on file in Room B–099 and available on the World Wide Web at www.ita.doc.gov/import_admin/records/frn/. The scope of the investigation has been amended since the *Preliminary Determination.*

#### Changes Since the Preliminary Determination

Because Nova Hut did not allow the Department to verify its submitted data, we have determined that the use of facts available is warranted under sections 776(a)(2)(C) and (D) of the Act. Moreover, we have determined that an adverse inference is warranted under section 776(b) of the Act, given that Nova Hut's refusal to allow verification constitutes failure to cooperate in this investigation by not acting to the best of the company's ability. As adverse facts available, we have used information on the record from Nova Hut's questionnaire response. Specifically, we have selected Nova Hut's highest product-specific margin as calculated in the amended preliminary determination. *See* Decision Memorandum, accessible in Room B–099 and on the World Wide Web at www.ita.doc.gov/import_admin/records/frn/.

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[1] The petitioners are Koppel Steel Corporation, Sharon Tube Company, U.S. Steel Group, Lorain Tubular Co. LLC and Vision Metals, Inc. (Gulf States Tube Division) and the United Steel Workers of America.

[2] *See Preliminary Determination of Critical Circumstances: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from the Czech Republic*, 65 FR 33803 (May 25, 2000).

**Critical Circumstances**

No comments were received regarding the Department's preliminary critical circumstances determination. For the reasons given in the preliminary determination of critical circumstances, the Department continues to find that critical circumstances exist with respect to small diameter seamless pipe imported from Nova Hut, in accordance with section 733(e)(1) of the Act.

As set forth in the preliminary determination of critical circumstances, because the massive imports criterion necessary to find critical circumstances has not been met with respect to firms other than Nova Hut, the Department continues to find, for the purposes of this final determination, that critical circumstances do not exist for imports of small diameter seamless pipe for the ''all others'' category.

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend the liquidation of all entries of small diameter seamless pipe from the Czech Republic produced by Nova Hut that are entered, or withdrawn from warehouse, for consumption on or after November 6, 1999, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service will also be directed to continue to suspend liquidation of all entries of small diameter seamless pipe from the Czech Republic produced by all companies not named above, that are entered, or withdrawn from warehouse, for consumption on or after February 4, 2000, the date of publication of our Preliminary Determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the ''all others'' rate, the simple average of the margins in the petition. *See Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand,* 65 FR 5520 (February 4, 2000); *see also Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada,* 64 FR 15457 (March 31, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy,* 64 FR 15458, 15459 (March 21, 1999).

In this case, we have calculated the dumping margin for the sole Czech respondent based entirely on adverse facts available. Given the circumstances of this case, and the discretion provided by section 735(c)(5)(B) of the Act, we have selected a somewhat different methodology to establish the ''all others'' rate. Instead of relying on the simple average of the petition margins, we have relied on the weighted-average of the margins obtained for each product sold during the POI, by using the respondent's data. This is consistent with our methodology in a recent determination. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Slovakia,* 65 FR 34657, 34658 (May 31, 2000). The resulting margin, applicable to all other manufacturers/exporters, is 32.26 percent.

We determine that the following weighted-average dumping margins exist for April 1, 1998, through March 31, 1999:

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Nova Hut, a.s | 39.93 |
| All Others | 32.26 |

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: June 19, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration*

**Appendix**

**List of Comments and Issues in the Decision Memorandum**

1. Request for Rescission of Initiation
2. Facts Available

[FR Doc. 00–16101 Filed 6–23–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–854]**

## Notice of Final Determination of Sales at Less Than Fair Value: Certain Tin Mill Products From Japan

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

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Samantha Denenberg or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington DC 20230; telephone 202–482–1386 and 202–482–3833, respectively.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department regulations are to the regulations at 19 CFR Part 351 (April 1999).

**Final Determination**

We determine that Certain Tin Mill Products (''TMP'') from Japan are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in Section 735 of the Act. The estimated margins are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

**Case History**

On April 12, 2000, we published in the **Federal Register** the preliminary determination in this investigation. See

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Tin Mill Products from Japan, 65 FR 19737 (April 12, 2000) (''Preliminary Determination''). No interested parties have filed case briefs or rebuttal briefs on the Preliminary Determination and no request for a hearing has been received by the Department. On May 16, 2000, and June 7, 2000, petitioners submitted an additional scope exclusion request. On June 12, 2000, and June 14, 2000, petitioners submitted further modification of the June 7, 2000 scope exclusion request See Scope Amendment Memorandum from Richard Weible to Joseph A. Spetrini, June 19, 2000.

**Scope of Investigation**

The scope of this investigation includes tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such and scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

• Single reduced electrolytically chromium coated steel with a thickness 0.238 mm (85 pound base box) (+/−10%) or 0.251 mm (90 pound base box) (+/−10%) or 0.255 mm (+/−10%) with 770 mm (minimum width) (−0/+1.588 mm) by 900 mm (maximum length if sheared) sheet size or 30.6875 inches (minimum width) (−0/+1/16 inch) and 35.4 inches (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T2½ anneal temper, with a yield strength of 31 to 42 kpsi (214 to 290 Mpa); with a tensile strength of 43 to 58 kpsi (296 to 400 Mpa); with a chrome coating restricted to 32 to 150 mg/m² with a chrome oxide coating restricted to 6 to 25 mg/m² with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m² as type DOS, or 3.5 to 6.5 mg/m² as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 400 degrees F for 100 minutes followed by a cool to room temperature).

• Single reduced electrolytically chromium-or tin-coated steel in the gauges of 0.0040 inch nominal, 0.0045 inch nominal, 0.0050 inch nominal, 0.0061 inch nominal (55 pound base box weight), 0.0066 inch nominal (60 pound base box weight), and 0.0072 inch nominal (65 pound base box weight), regardless of width, temper, finish, coating or other properties.

• Single reduced electrolytically chromium coated steel in the gauge of 0.024 inch, with widths of 27.0 inches or 31.5 inches, and with T–1 temper properties.

• Single reduced electrolytically chromium coated steel, with a chemical composition of 0.005% max carbon, 0.030% max silicon, 0.25% max manganese, 0.025% max phosphorous, 0.025% max sulfur, 0.070% max aluminum, and the balance iron, with a metallic chromium layer of 70–130 mg/m², with a chromium oxide layer of 5–30 mg/m², with a tensile strength of 260–440 N/mm ²; with an elongation of 28–48%, with a hardness (HR–30T) of 40–58, with a surface roughness of 0.5–1.5 microns Ra, with magnetic properties of Bm (KG) 10.0 minimum, Br (KG) 8.0 minimum, Hc (Oe) 2.5–3.8, and μ1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU–60.

• Bright finish tin-coated sheet with a thickness equal to or exceeding 0.0299 inch, coated to thickness of ¾ pound (0.000045 inch) and 1 pound (0.00006 inch).

• Electrolytically chromium coated steel having ultra flat shape defined as oil can maximum depth of 5/64 inch (2.0 mm) and edge wave maximum of 5/64 inch (2.0 mm) and no wave to penetrate more than 2.0 inches (51.0 mm) from the strip edge and coilset or curling requirements of average maximum of 5/64 inch (2.0 mm) (based on six readings, three across each cut edge of a 24 inches (61 cm) long sample with no single reading exceeding 4/32 inch (3.2 mm) and no more than two readings at 4/32 inch (3.2 mm)) and (for 85 pound base box item only: crossbuckle maximums of 0.001 inch (0.0025 mm) average having no reading above 0.005 inch (0.127 mm)), with a camber maximum of ¼ inch (6.3 mm) per 20 feet (6.1 meters), capable of being bent 120 degrees on a 0.002 inch radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/square meter and chromium oxide of 10 mg/square meter, with a chemistry of 0.13% maximum carbon, 0.60% maximum manganese, 0.15% maximum silicon, 0.20% maximum copper, 0.04% maximum phosphorous, 0.05% maximum sulfur, and 0.20% maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS–A oil at an aim level of 2 mg/square meter, with not more than 15 inclusions/foreign matter in 15 feet (4.6 meters) (with inclusions not to exceed 1/32 inch (0.8 mm) in width and 3/64 inch (1.2 mm) in length), with thickness/temper combinations of either 60 pound base box (0.0066 inch) double reduced CADR8 temper in widths of 25.00 inches, 27.00 inches, 27.50 inches, 28.00 inches, 28.25 inches, 28.50 inches, 29.50 inches, 29.75 inches, 30.25 inches, 31.00 inches, 32.75 inches, 33.75 inches, 35.75 inches, 36.25 inches, 39.00 inches, or 43.00 inches, or 85 pound base box (0.0094 inch) single reduced CAT4 temper in widths of 25.00 inches, 27.00 inches, 28.00 inches, 30.00 inches, 33.00 inches, 33.75 inches, 35.75 inches, 36.25 inches, or 43.00 inches, with width tolerance of −0/+⅛ inch, with a thickness tolerance of −/+ 0.0005 inch, with a maximum coil weight of 20,000 pounds (9071.0 kg), with a minimum coil weight of 18,000 pounds (8164.8 kg) with a coil inside diameter of 16 inches (40.64 cm) with a steel core, with a coil maximum outside diameter of 59.5 inches (151.13 cm), with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes, and rust.

• Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents in the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.7 mg/square foot of chromium applied as a cathodic dichromate treatment, with coil form having restricted oil film weights of 0.3–0.4 grams/base box of type DOS–A oil, coil inside diameter ranging from 15.5 to 17 inches, coil outside diameter of a maximum 64 inches, with a maximum coil weight of

25,000 pounds, and with temper/coating/dimension combinations of: (1) CAT 4 temper, 1.00/.050 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 33.1875 inch ordered width; or (2) CAT5 temper, 1.00/0.50 pound/base box coating, 75 pound/base box (0.0082 inch) thickness, and 34.9375 inch or 34.1875 inch ordered width; or (3) CAT5 temper, 1.00/0.50 pound/base box coating, 107 pound/base box (0.0118 inch) thickness, and 30.5625 inch or 35.5625 inch ordered width; or (4) CADR8 temper, 1.00/0.50 pound/base box coating, 85 pound/base box (0.0093 inch) thickness, and 35.5625 inch ordered width; or (5) CADR8 temper, 1.00/0.25 pound/base box coating, 60 pound/base box (0.0066 inch) thickness, and 35.9375 inch ordered width; or (6) CADR8 temper, 1.00/0.25 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 32.9375 inch, 33.125 inch, or 35.1875 inch ordered width.

• Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents on the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.5 mg/square foot of chromium applied as a cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT 5 temper with 1.00/0.10 pound/base box coating, with a lithograph logo printed in a uniform pattern on the 0.10 pound coating side with a clear protective coat, with both sides waxed to a level of 15–20 mg/216 sq. in., with ordered dimension combinations of (1) 75 pound/base box (0.0082 inch) thickness and 34.9375 inch × 31.748 inch scroll cut dimensions; or (2) 75 pound/base box (0.0082 inch) thickness and 34.1875 inch × 29.076 inch scroll cut dimensions; or (3) 107 pound/base box (0.0118 inch) thickness and 30.5625 inch × 34.125 inch scroll cut dimension.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS''), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0000 if of alloy steel. Although the subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

**Period of Investigation**

The period of investigation (''POI'') is October 1, 1998 through September 30, 1999.

**Facts Available**

In the Preliminary Determination, the Department based the dumping margins for respondents Nippon Steel Corporation (''NSC''), Kawasaki Steel Corporation (''Kawasaki''), NKK Corporation (''NKK''), and Toyo Kohan (''Toyo'') on facts otherwise available under Section 776(a)(2)(A) of the Act because these respondents failed to participate in the investigation and failed to provide information requested by the Department needed to calculate a dumping margin as detailed in the Preliminary Determination. The Department based the dumping margins for respondents NSC and Toyo on facts otherwise available under Section 776(a)(2)(B) of the Act because the respondents failed to provide the information requested by the Department in the form or manner requested as detailed in the Preliminary Determination. The Department based the dumping margins for respondents NKK and Kawasaki on facts otherwise available under Section 776(a)(2)(A) of the Act because these respondents only provided information responding to Section A of the Department's antidumping questionnaire and failed to provide any other information requested by the Department needed to calculate a dumping margin as detailed in the Preliminary Determination.

In selecting from among the facts otherwise available, section 776(b) of the Act provides that adverse inferences may be used when a party fails to cooperate by not acting to the best of its ability to comply with the Department's requests for information. As detailed in the Preliminary Determination, the Department has determined that the use of adverse inferences is warranted for all respondents because all respondents have failed to cooperate to the best of their abilities in this investigation.

Further, section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition or any other information placed on the record. See also ''Statement of Administrative Action'' (''SAA'') accompanying the URAA, H.R. Rep. No. 103–316, 829–831 (1994). Pursuant to Section 776(b) of the Act, the Department applied the highest margin calculated from the information placed on the record by petitioners on October 28, 1999 and November 8, 1999. We continue to find this margin corroborated, pursuant to section 776(c) of the Act, for the reasons discussed in the Preliminary Determination. No interested parties have objected to the use of adverse facts available for the mandatory respondents in this investigation, nor to the Department's choice of facts available. Furthermore, the Department has received no request for a hearing in this investigation. Accordingly, for its final determination, the Department is continuing the use of the highest margin alleged by petitioners for all non-responding mandatory respondents in this investigation.

**The All-Others Rate**

No interested parties have filed case briefs or rebuttal briefs on this issue. Accordingly, the Department is continuing to base the ''all-others'' rate on the simple average of margins submitted to the record by petitioners on October 28, 1999 and November 8, 1999, which is 32.52 percent, as discussed in the Preliminary Determination.

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service (''Customs'') to continue to suspend liquidation of all entries of subject merchandise from Japan that are entered, or withdrawn from warehouse, for consumption on or after April 12, 2000, the date of publication of the Preliminary Determination in the **Federal Register**.

We will instruct Customs to require a cash deposit or posting of a bond for each entry equal to the margins shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exporter/Manufacturer | Weighted-average margin (percentage) |
|---|---|
| Kawasaki Steel Corporation ..... | 95.29 |
| Nippon Steel Corporation ..... | 95.29 |
| NKK Corporation ..... | 95.29 |
| Toyo Kohan ..... | 95.29 |
| All Others ..... | 32.52 |

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that

material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 19, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–16108 Filed 6–23–00; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–815]**

### Certain Welded Stainless Steel Pipe From Taiwan: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part

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

**ACTION:** Notice of final results in the antidumping duty administrative review of certain welded stainless steel pipe from Taiwan and determination to revoke order in part.

**SUMMARY:** On December 22, 1999, the Department of Commerce (''Department'') published the preliminary results of the administrative review of the antidumping duty order on certain welded stainless steel pipe from Taiwan. This review covers one manufacturer/exporter of the subject merchandise. The period of review (''POR'') is December 1, 1997 through November 30, 1998.

We gave interested parties an opportunity to comment on the preliminary results. Based upon our verification of the data and analysis of the comments received, we have made changes in the margin calculation. Therefore, the final results differ from the preliminary results of this review. The final weighted-average dumping margin is listed below in the section titled ''Final Results of the Review.''

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Juanita H. Chen or Robert A. Bolling, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–0409 (Chen) or 202–482–3434 (Bolling), fax 202–482–1388.

**SUPPLEMENTARY INFORMATION:**

#### Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (1999).

#### Background

On December 30, 1992, the Department published the antidumping duty order on certain welded stainless steel pipe from Taiwan. See Certain Welded Stainless Steel Pipe From Taiwan: Amended Final Determination and Antidumping Order, 57 FR 62300 (December 30, 1992). On December 8, 1998, the Department published a notice of opportunity to request administrative review of this order for the period December 1, 1997 through November 30, 1998. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 63 FR 67646 (December 8, 1998). Both Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen''), a Taiwan producer and exporter of subject merchandise, and Petitioners, Avesta Sheffield Pipe Co., Damascus Tube Division, Damascus-Bishop Tube Co., and the United Steelworkers of America, AFL–CIO/CLC (collectively ''Petitioners''), timely requested that the Department conduct an administrative review of Ta Chen's sales. Ta Chen also requested revocation of the Department's antidumping duty order on welded stainless steel pipe from Taiwan. On January 25, 1999, in accordance with section 751(a) of the Act, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review for the period December 1, 1997 through November 30, 1998 (64 FR 3682).

On December 22, 1999, the Department published the preliminary results of the administrative review in the **Federal Register**. See Certain Welded Stainless Steel Pipe from Taiwan: Preliminary Results of Antidumping Administrative Review and Intent to Revoke in Part, 64 FR 71728 (December 22, 1999) (''Preliminary Results''). On January 17, 2000 through January 25, 2000, the Department conducted verification of Ta Chen's home market data at Ta Chen's headquarters in Tainan, Taiwan. On April 4, 2000 through April 7, 2000, the Department conducted verification of Ta Chen's U.S. sales data at the Long Beach, California office of Ta Chen's U.S. affiliate, Ta Chen International Corp. (''TCI''). We gave interested parties an opportunity to comment on our Preliminary Results. Ta Chen filed a case brief on May 23, 2000; Petitioners did not file a case brief or a rebuttal brief. No hearing was requested or held. The Department has conducted and completed the administrative review in accordance with section 751 of the Act.

#### Scope of the Review

The merchandise subject to this administrative review is certain welded austenitic stainless steel pipe (''WSSP'') that meets the standards and specifications set forth by the American Society for Testing and Materials (''ASTM'') for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines.

Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5062, 7306.40.5064, 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of this review is limited to welded austenitic stainless steel pipes. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this order is dispositive.

#### Analysis of Comments Received

All issues raised in the case brief to this administrative review are addressed

in the June 19, 2000 Issues and Decision Memorandum (''Decision Memo'') from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, which is hereby adopted by this notice. A list of the issues raised and to which we have responded, all of which are in the Decision Memo, and a list of our changes, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import_admin/records/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

**Use of Facts Available**

In accordance with section 776 of the Act, we have determined that the use of facts available is appropriate for certain portions of our analysis of Ta Chen. For a discussion of our determination with respect to this matter, see the Decision Memo.

**Sales Below Cost in the Home Market**

The Department disregarded home market below-cost sales that failed the cost test in the final results of review.

**Request for Revocation**

On December 29, 1998, Ta Chen submitted a request, in accordance with 19 CFR 351.222(e), that the Department revoke the antidumping duty order on WSSP from Taiwan with respect to Ta Chen. In accordance with 19 CFR 351.222(e), Ta Chen certified that it sold the subject merchandise at not less than normal value for a three-year period, including this review period, and that it sold the subject merchandise in commercially significant quantities to the U.S. during each of these three years.[1] Ta Chen also stated that it would not sell the subject merchandise at less than normal value to the U.S. in the future, and agreed to the reinstatement of the antidumping order, as long as any exporter or producer is subject to the order, if the Department concludes that Ta Chen sold the subject merchandise at less than normal value.

[1] At the Department's request, on October 19, 1999, Ta Chen submitted volume and value data supporting its statement that it sold subject merchandise in commercially significant quantities for three consecutive years.

In the fourth administrative review period, Ta Chen had a de minimis margin of 0.10 percent. See Certain Welded Stainless Steel Pipe from Taiwan: Final Results of Administrative Review, 63 FR 38382 (July 16, 1998). While no fifth administrative review was conducted, the Department's regulations state at 19 CFR 351.222(d) that the Department ''need not have conducted a review of an intervening year.'' In this sixth administrative review period, Ta Chen had a de minimis margin in the preliminary results. See Preliminary Results, 64 FR at 71734. Because we have determined in the final results for this administrative review that Ta Chen has a de minimis margin (Final Results of the Review, infra), Ta Chen meets the requirement of three consecutive years of zero or de minimis margins on WSSP, and revocation of the order with respect to Ta Chen is granted under 19 CFR 351.222(e).

**Changes Since the Preliminary Results**

Based on our verification and analysis of the comments received, we have made certain changes in the margin calculation, as discussed in the Decision Memo. In addition, we have made corrections to certain clerical errors in the margin calculation: (1) Errors in currency denomination in the cost of goods sold and the foreign unit price calculations; and (2) an incorrect variable in the selling expense calculation, as discussed in the Analysis Memorandum for Ta Chen (June 9, 2000).

**Final Results of the Review**

We determine that the following percentage weighted-average margin exists for the period December 1, 1997 through November 30, 1998:

CERTAIN WELDED STAINLESS STEEL PIPE

| Producer/manufacturer/exporter | Weighted-average margin (percent) |
|---|---|
| Ta Chen | 0.47 |

The Department shall determine, and the U.S. Customs Service (''Customs'') shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. With respect to the constructed export price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct Customs to assess any resulting non-de minimis percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries during the review period.

The Department's revocation decision applies to all entries of subject merchandise produced by Ta Chen and that are also exported by Ta Chen, entered, or withdrawn from warehouse, for consumption on or after December 1, 1998. The Department will order the suspension of liquidation ended for all such entries and will instruct Customs to release any cash deposits or bonds. If applicable, the Department will further instruct Customs to refund with interest any cash deposits on entries made after November 30, 1998.

**Cash Deposit Requirements**

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of certain WSSP from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Ta Chen will be zero percent, except that for imports of subject merchandise that are produced by Ta Chen and also exported by Ta Chen, cash deposits will no longer be required and the suspension of liquidation will cease for entries made on or after December 1, 1998; (2) for previously reviewed or investigated companies other than Ta Chen, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.84 percent. This rate is the ''all others'' rate from the LTFV investigations. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipe from Taiwan, 57 FR 62300 (December 30, 1992).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant

entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 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 sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 19, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

### Appendix

Issues in Decision Memo:

Changes Since the Preliminary Results

1. Export Price or Constructed Export Price Status
2. Packing Expenses—Allocation of Labor

Discussion of the Issues

1. EP/CEP
   a. Calculation and Allocation of U.S. Inventory Carrying Cost (Time on Water)
   b. Calculation and Allocation of U.S. Inventory Carrying Cost and Credit Expense (Short-Term Borrowing Cost)
2. Other AD Issues
   a. U.S. Date of Sale
   b. Advertising
   c. Date of Payment

[FR Doc. 00–16103 Filed 6–23–00; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 052400C]**

### Endangered and Threatened Species; Notice of Availability for the Draft Recovery Plan for Johnson's Seagrass

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

**ACTION:** Notice of availability of a draft recovery plan; request for comments.

**SUMMARY:** NMFS announces the availability of the draft recovery plan for Johnson's seagrass (*Halophila johnsonii*), a marine plant listed as threatened under the Endangered Species Act (ESA). NMFS is soliciting review and comment from the public on the draft plan, and will consider these comments in the preparation of a final recovery plan.

**DATES:** Comments on the draft recovery plan must be received no later than 5 p.m., Eastern standard time, on August 25, 2000.

**ADDRESSES:** A copy of the draft recovery plan is available from Layne Bolen, Protected Resources Division, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2439. Comments may also be sent via facsimile (fax) to 727–570–5517, but they will not be accepted if submitted via e-mail or Internet.

**FOR FURTHER INFORMATION CONTACT:** Layne Bolen at 850–234–6541 ext 237, Dr. Judson Kenworthy at 252–728–8750, or Marta Nammack at 301–713–1401 ext 116, or send a request via electronic mail to jsg.info@noaa.gov.

**SUPPLEMENTARY INFORMATION:**

### Background

Johnson's seagrass, *H. johnsonii*, is a marine plant species found growing along approximately 200 km of coastline in southeastern Florida between Sebastian Inlet and north Biscayne Bay. It is listed as threatened under the Endangered Species Act (ESA). *H. johnsonii* is the first marine plant to be listed under the ESA. The ESA requires NMFS to develop and implement recovery plans for most species.

The draft recovery plan contains a synopsis of the biology and distribution of Johnson's seagrass, a description of factors affecting species recovery, an outline of actions needed to recover the species, and an implementation schedule for completing the recovery tasks.

### Public Comments Solicited

NMFS intends that the final recovery plan will take advantage of information and recommendations from all interested parties. Therefore, comments and suggestions are solicited from the public, other concerned governmental agencies, the scientific community, industry, and any other person interested in the development of the recovery plan.

**Authority:** 16 U.S.C. 1531–1543 *et seq.*

Dated: June 19, 2000.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 00–16112 Filed 6–23–00; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

### Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:*United States Patent and Trademark Office (USPTO).

*Title:* Patent Processing (Updating) (Proposed Additions of Request for Continued Examination and Reconstruction of Unlocatable Application and Patent Files).

*Form Numbers:* PTO/SB/30.

*Agency Approval Number:* 0651–0031.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 1,018,736 hours.

*Number of Respondents:* 2,231,365 respondents.

*Avg. Hours Per Response:* The USPTO estimates that it will take the public 12 minutes to gather, prepare, and submit a request for continued examination. The USPTO estimates that it will take the public one hour to gather, prepare, and submit a copy of the applicant's record of the application or patent file.

*Needs and Uses:* This collection of information is required by 35 U.S.C. 132, which has been amended by the ''American Inventors Protection Act of 1999.'' Specifically, the ''American Inventors Protection Act of 1999'' amends U.S.C. 132 to provide that the USPTO may prescribe regulations for the continued examination of applications (for a fee) at the request of the applicant. The USPTO has created a form for these requests which applicants can submit instead of filing a continued prosecution application. The USPTO uses these forms to process and initiate continued examination of a previously submitted application. In addition, the USPTO is publishing an interim rule associated with this information collection that allows the USPTO to request a copy of the record of the correspondence between the USPTO and the applicant or patentee in order to reconstruct application or patent files that are misplaced and cannot be found after a diligent search. Reconstructing the misplaced application or patent file allows the USPTO to continue prosecuting a patent application. If applicants do not respond to the USPTO

in a timely manner with either the correspondence or copies of the correspondence, the USPTO will abandon the patent application.

*Affected Public:* Individuals or households, businesses or other for-profit, not-for-profit institutions, farms, Federal Government, and State, local or tribal governments.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Thao Nguyen, Manager, Data Administration Division (Acting Records Officer), (703) 308–7397, Data Administration Division, Office of Data Management, United States Patent and Trademark Office, Crystal Park 3, 3rd Floor, Suite 310, Washington, D.C. 20231 or via the Internet at (*Thao.Nguyen@uspto.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to David Rostker, OMB Desk Officer, Room 10236, New Executive Office Building, 725 17th Street, NW., Washington, D.C. 20503.

Dated: June 16, 2000.

**Thao Nguyen,**

*Manager, Data Administration Division (Acting Records Officer), Office of Data Management.*

[FR Doc. 00–16022 Filed 6–22–00; 8:45 am]

**BILLING CODE 3510–16–P**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

### Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* United States Patent and Trademark Office (USPTO).

*Title:* Initial Patent Application.

*Form Numbers:* PTO/SB/01/01A/02A/02B/02C/03/03A/04/05/06/07/13PCT/17/18/19/29/29A/101/102/103/104/105/106/107/108/109/110.

*Agency Approval Number:* 0651–0032.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 2,990,260 hours.

*Number of Respondents:* 344,100 responses.

*Avg. Hours Per Response:* The PTO estimates that it takes an average of 24 minutes to gather, prepare, and submit a continued prosecution application. This is in contrast to the 12 minutes that the USPTO estimates that it will take the public to gather, prepare, and submit a request for continued examination. The USPTO estimates that approximately 10,000 of the 25,000 continued prosecution applications will be filed as requests for continued examination. The estimated use of the request for continued examination will decrease the burden associated with this information collection. The USPTO estimates that it takes an average of 8.0 hours to complete the specification, claim, drawing, and cover sheet required for a provisional application, and that it takes an average of 10.8 hours to complete the specification, claim, drawing, declaration, and transmittal forms required for a nonprovisional utility, plant or design application. If applicants choose to submit their patent application using the application data sheet, the USPTO estimates that it will take an average of 10.6 hours to complete the application using either the paper or electronic format, unless it is the first time that the applicant is using the PrintEFS format. If that is the case, the USPTO estimates that it will take an average of 11.3 hours to complete the application. This takes into account the time that the USPTO estimates it will take the applicant to download and install the viewer that is necessary to use the electronic template. Continuing applications require varying burden hours, based on how much information must be added to or duplicated from the initial application. In the case of continuation requests for international applications, the entire application must be provided because it had not been submitted previously as a national application.

*Needs and Uses:* This collection of information is required by 35 U.S.C. §§ 131 and 37 CFR 1.16 through 1.84. The public uses the forms in this information collection to submit the information necessary for a new utility, design, or plant applications. This includes such information as the declaration, fee transmittal sheets, and the bibliographic data. The USPTO uses the information collected through this information collection to review and issue new utility, design, and plant applications and to process requests for continuation or provisional applications.

*Affected Public:* Individuals or households, businesses or other for-profit, not-for-profit institutions, farms, Federal government, and state, local or tribal government.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Thao Nguyen, Manager, Data Administration Division (Acting Records Officer), (703) 308–7397, Data Administration Division, Office of Data Management, United States Patent and Trademark Office, Crystal Park 3, 3rd Floor, Suite 310, Washington, D.C. 20231 or via the Internet at (Thao.Nguyen@uspto.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to David Rostker, OMB Desk Officer, Room 10236, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503.

Dated: June 16, 2000.

**Thao Nguyen,**

*Manager, Data Administration Division (Acting Records Officer), Office of Data Management.*

[FR Doc. 00–16023 Filed 6–23–00; 8:45 am]

**BILLING CODE 3510–16–P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Availability of Funds To Provide Grants to Organizations That Support Service Days or Events That Include Persons With Disabilities

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Corporation for National and Community Service (the Corporation) announces the availability of approximately $1 million to support outreach to increase the participation of persons with disabilities in national service projects. The Corporation will use these funds to eligible applicants who will in turn sub-grant to local organizations to plan and carry out outreach for service opportunities for individuals with disabilities in conjunction with one or more service days or events (*e.g.*, Martin Luther King, Jr. Day, Youth Service Day, Make a Difference Day, National Volunteer Week) within the next year. These service opportunities must include persons with disabilities to increase

their participation in national service. We expect to award up to two grants in amounts ranging from $100,000 to $1,000,000.

**DATES:** All proposals must arrive at the Corporation no later than 5 p.m., Eastern Daylight Time, on August 15, 2000. We anticipate announcing the selections no later than September 11, 2000.

**ADDRESSES:** Proposals must be submitted to the Corporation at the following address: Corporation for National and Community Service, Attn: Nancy Talbot, 1201 New York Avenue NW, Washington, D.C. 20525.

**FOR FURTHER INFORMATION CONTACT:** For further information, or to obtain an application, contact Thea Kachoris at (202) 606–5000, ext. 562, TDD (202) 565–2799. This notice may be requested in an alternative format.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The Corporation was established in 1993 to engage Americans of all ages and backgrounds in service to their communities. The Corporation's national service programs provide opportunities for participants to serve full-time and part-time, with or without stipend, as individuals or as part of a team. AmeriCorps*State, National, VISTA, and National Civilian Community Corps programs engage thousands of Americans on a full, or part-time basis, at over 1,000 locations to help communities meet their toughest challenges. Learn and Serve America integrates service into the academic life or experiences of over one million youth from kindergarten through higher education in all 50 states. The National Senior Service Corps utilizes the skills, talents and experience of over 500,000 older Americans to help make communities stronger, safer, healthier, and smarter.

AmeriCorps*State and AmeriCorps*National programs that involve over 40,000 Americans each year in result-driven community service, are grant programs managed by: (1) State commissions that select and oversee programs operated by local organizations; (2) national non-profit organizations that act as parent organizations for operating sites across the country; (3) Indian tribes; or (4) U.S. Territories. In addition, the Corporation supports the AmeriCorps*VISTA (Volunteers in Service to America) and AmeriCorps*NCCC (National Civilian Community Corps) programs. More than 6,000 AmeriCorps*VISTA members develop grassroots programs, mobilize resources and build capacity for service across the nation. AmeriCorps*NCCC provides the opportunity for approximately 1,000 individuals between the ages of 18 and 24 to participate each year in ten-month residential programs located mainly on inactive military bases. Learn and Serve America grants provide service-learning opportunities for youth through grants to state education agencies, community-based organizations, and higher education institutions and organizations, and Indian Tribes and Territories. The National Senior Service Corps operates through grants to nearly 1,300 local organizations for the Retired and Senior Volunteer (RSVP), Foster Grandparent (FGP) and Senior Companion (SCP) programs to provide service to their communities. For additional information on the national service programs supported by the Corporation, go to *http://www.nationalservice.org.*

The Corporation is committed to increasing the participation of persons with disabilities in national service. We recently sponsored a national conference that brought together disability organizations and national service programs to better understand opportunities and avenues for collaboration. We are continuing our commitment by providing these funds, authorized under section 129(d)(5)(C) of the National and Community Service Act of 1990, to support outreach to persons with disabilities to increase their participation in national service activities. We expect to issue an additional announcement in July for a larger number of grants to support on-going outreach efforts.

**B. Eligible Applicants**

Eligible applicants for this funding are nonprofit organizations with experience in promoting or administering national days of service or service events. The nonprofit organization must have experience in making grants to or entering into partnerships with local nonprofit organizations or agencies in more than one state.

Eligible sub-grantees are nonprofit organizations and public agencies, including, but not limited to: volunteer centers, institutions of higher education, local education agencies, educational institutions, disability-related organizations, and local or state governments. An organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)0(4), that engages in lobbying activities, is not eligible to be a grantee or subgrantee.

Based on the requirements for applicants and the number of grants to be awarded under this notice, the Corporation expects fewer than ten applications to be submitted.

**C. Statutory Authority**

Section 129(d)(5)(C) of the National and Community Service Act authorizes the Corporation to make grants to pay for the Federal share of (1) Providing information about national service activities to persons with disabilities and (2) enabling such persons to participate.

**D. Purpose of Funds**

This is an outreach effort to encourage individuals with a disability to participate in national service days of service or events. Our goal is to use this strategy to increase the number of persons with disabilities who are familiar with service and may choose to participate in a national service program or project as a result of their participation in a service day event. The Corporation will use these funds to make grants to organizations who will in turn subgrant to eligible organizations. These sub-grantees will plan and carry out service opportunities in conjunction with one or more national service days or events within the 2000–2001 program year (*e.g.,* Martin Luther King, Jr. Day, Youth Service Day, Make a Difference Day, National Volunteer Week) and intend to include persons with and without disabilities in carrying out the project. For more information about these days and events, contact Rhonda Taylor at (202) 606–5000, ext. 282.

We expect to award up to two grants in amounts ranging from $100,000 to $1,000,000 to cover a project period of one year. Grantees must designate specific sub-grants within six months of our grant award.

**E. Matching Funds Requirement**

The Federal share of the cost of carrying out activities under these grants may not exceed 75 percent. A grantee may comply with this requirement through cash or in-kind resources. Cash match may be in the form of State funds, local funds, or Federal funds (other than funds made available under the national service laws).

**F. Scope of Activities To Be Supported by Outreach Sub-Grants**

The purpose of these funds is to support service projects to engage persons with disabilities and increase their participation in national service. Efforts to recruit persons with disabilities to participate in the service days will be supported by this grant.

Therefore, we expect that a significant portion of the community service activities supported by the sub-grant will be conducted by persons with disabilities. In addition, we encourage activities where persons with disabilities and others are working side-by-side. Applicants must propose clearly-defined and specific activities to reach organizations that will apply as sub-grantees.

The direct service to be done on and in connection with the service days may include, but is not limited to, the following types of activities: tutoring children or adults, feeding the hungry, packing lunches, delivering meals, stocking a food or clothing pantry, repairing a school and adding to its resources, translating books and documents into other languages, recording books for the visually impaired, restoring a public space, organizing a blood drive, registering bone marrow and organ donors, renovating low-income or senior housing, building a playground, removing graffiti and painting a mural, building or repairing homes for families in need, arranging safe spaces for children who are out of school and whose parents are working, collecting oral histories of elders, running health fairs, and gleaning and distributing fruits and vegetables.

Although celebrations, parades, and recognition ceremonies may be a part of the activities planned on the day of service, for the purposes of this grant those activities may not be supported.

Grants will be subject to the National and Community Service Act and to applicable Corporation regulations, including those published in 45 C.F.R. Parts 2540–2543.

**G. Application Requirements**

To be considered for funding, eligible applicants should submit the following:

1. An Application for Federal Assistance (SF 424).

2. Budget Information—Non-Construction Programs (SF 424A).

3. A Budget Narrative that provides a description of the budget form. It may be easier to complete the budget narrative first, using the line items on the SF 424A as a guide. The budget narrative should be in the same order as the budget form with requested Corporation funds clearly defined. For each of the line items contained on the budget form, provide a full explanation in the budget narrative that explains the item, its purpose, and shows how you calculated the cost.

4. Assurances—Non-Construction Programs (SF 424B).

5. A Program Narrative (no more than 20 pages) that includes:

a. The organization's background and capacity to provide sound programmatic and fiscal oversight to sub-grantees, including experience in administering federal grants.

b. Outreach plan to solicit sub-grantees.

c. Process to select sub-grantees and selection criteria. This should include the process you will use to ensure the organizational capacity of sub-grantees including experience of sub-grantee(s) in administering federal grants, the track record of sub-grantees in organizing service projects, and the ability of sub-grantees to reach and engage persons with disabilities.

d. Description of how you will assure sub-grantee compliance with requirements.

e. Description of resources available to manage this grant and how you will assess this in selecting sub-grantees.

f. Timeline that covers major activities of the application.

Applicants must submit one (1) Unbound, original proposal and two (2) copies to the following address: Corporation for National and Community Service, Attn: Nancy Talbot, 1201 New York Avenue NW, Washington, D.C. 20525. We will not accept any proposals submitted by facsimile. All applicants are encouraged to submit voluntarily an additional four (4) copies of the application to expedite the review process.

Copies of the SF 424, SF 424A, and SF 424 B can be obtained at the following website: http://fillform.gsa.gov/. For a printed copy of any of these materials, please contact Thea Kachoris at (202) 606–5000, ext. 562.

**H. Selection Process and Criteria**

In awarding these grants, the Corporation will consider program design, organizational capacity, and budget and cost effectiveness. Applicants must propose clearly-defined and specific activities to reach organizations that will apply as sub-grantees.

The Corporation will make all final decisions concerning awards and may require revisions to the original grant proposal in order to achieve the objectives under this Notice.

CFDA No. 94.007

Dated: June 20, 2000.

**Gary Kowalczyk,**

*Coordinator, National Service Programs, Corporation for National and Community Service.*

[FR Doc. 00–16044 Filed 6–23–00; 8:45 am]

BILLING CODE 6050–28–U

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense will submit to OMB for emergency processing, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title and OMB Number:* The Public and the USAF: Recruiting and Retention Challenges; OMB Number 0701–[To Be Determined].

*Type of Request:* New Collection; Emergency processing requested with a shortened public comment period ending July 6, 2000. An approval date by July 15, 2000, has been requested.

*Number of Respondents:* 4,500.

*Responses per Respondent:* 1.

*Annual Responses:* 4,500.

*Average Burden per Response:* 13.33 minutes.

*Annual Burden Hours:* 1,000.

*Needs and Uses:* Recruitment and retention of United States Air Force personnel have become increasingly difficult due to many environmental factors, and the USAF is launching its first paid network television advertising campaign to address those recruiting and retention challenges. Audience research is needed to guide both planning of the campaign and evaluation of its effects. The information collected will be used by Air Force Affairs and Air Force Recruiting Service to measure the external audience's perceptions of and attitudes toward the people and mission of the Air Force, providing focused guidance in the process for the Air Force's initiatives to tackle its unprecedented recruiting and retention challenges. Potential areas of public confusion or need for more, or differently presented, information can be identified in order to better achieve the Air Force's recruiting and retention goals. Information will be reported and used in aggregate, not at the level of the individual respondent. Respondents are recruitment-age youth and the adults who influence them.

*Affected Public:* Individuals or Households.

*Frequency:* One-Time (including baseline and 3-, 6-month progress surveys).

*Respondents Obligation:* Voluntary.

*OMB Desk Officer:* Mr. Edward C. Springer.

Written comments and recommendations on the proposed

information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302, or by fax at (703) 604–6370.

Dated: June 20, 2000.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 00–15989 Filed 6–23–00; 8:45 am]

**BILLING CODE 5001–10–M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title, Form Number, and OMB Number:* Defense Export Loan Guarantee (DELG) Application; DD Form 2747; OMB Number 0704–0391.

*Type of Request:* Reinstatement.

*Number of Respondents:* 20.

*Responses per Respondent:* 1.

*Annual Responses:* 20.

*Average Burden per Response:* 1 hour.

*Annual Burden Hours:* 20.

*Needs and Uses:* The collection of information is necessary to review and process applications for loan guarantees issued under 10 U.S.C. 2540 for defense exports. Respondents are defense suppliers or exporters, lenders or nations, who are requesting a DoD guarantee of a private sector loan in support of the sale or long term lease, to certain eligible countries, of U.S. defense articles, services, or design and construction services. The completed form will enable the Department to determine whether the proposed transaction meets statutory guidance for program implementation.

*Affected Public:* Business or Other For-Profit.

*Frequency:* On Occasion.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*OMB Desk Officer:* Mr. Lewis W. Oleinick.

Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD (Acquisition), Room 10236, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 19, 2000.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 00–15990 Filed 6–23–00; 8:45 am]

**BILLING CODE 5001–10–M**

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Intent To Prepare an Environmental Impact Statement for Introduction of the Atlantic Fleet F/A–18 E/F Aircraft on the East Coast of the United States and To Announce Public Scoping Meetings

**AGENCY:** Department of the Navy, DOD.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy (Navy) announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental consequences of the introduction of the Atlantic Fleet F/A–18 E/F aircraft on the East Coast of the United States.

**DATES AND ADDRESSES:** Public scoping open houses will be held to receive oral and/or written comments on environmental concerns that should be addressed in the EIS. Public scoping open houses will be held from 4 p.m. to 9 p.m. at the following dates and locations: July 12, 2000 in the Best Inn, State Highway 57, Exit 58 on I–95, Townsend, Georgia; July 13, 2000 in the Robert Smalls Middle School, 43 W.K. Austin Drive, Beaufort, South Carolina; July 18, 2000 in the Havelock Middle School, 102 High School Drive, Havelock, North Carolina; July 19, 2000 in the Pamlico County Primary School, 323 Neals Creek Road, Bayboro, North Carolina; July 25, 2000 in the Strawbridge Elementary School, 2553 Strawbridge Road, Virginia Beach, Virginia; July 26, 2000 in the Butts Road Intermediate School, 1571 Mt. Pleasant Road, Chesapeake, Virginia; and July 27, 2000 in the Comfort Inn, 8031 Oregon Inlet Road, Nags Head, North Carolina.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dan Cecchini (Code 2032), Atlantic Division, Naval Facilities Engineering Command, 1510 Gilbert Street, Norfolk, Virginia 23511; telephone (757) 322–4887, fax (757) 322–4984.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 102(2)(c) of the NEPA of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Navy announces its intent to prepare an EIS to evaluate the potential environmental consequences of the introduction of the Atlantic Fleet F/A–18 E/F aircraft on the East Coast of the United States.

The Navy has decided to purchase F/A–18 E/F aircraft because of its improved capabilities over earlier aircraft models. It is designed to fly farther and carry a heavier payload, which will make it a more effective tool for national defense. An EIS and Record of Decision (ROD) were completed in 1998 for the introduction of F/A–18 E/F aircraft on the West Coast. In 1999, the Navy began a phase-in of the F/A–18 E/F aircraft to NAS Lemoore, California. Introduction of the F/A–18 E/F aircraft in the Atlantic fleet area of responsibility will begin in 2004 and be completed by 2008.

The EIS will address the environmental impacts associated with basing and operation of the Atlantic fleet F/A–18 E/F aircraft on the East Coast, retirement of existing F–14 aircraft and earlier F/A–18 models, and new construction and/or renovation of buildings and other support facilities. In addition, the EIS will assess impacts on each local community and economy associated with relocation of military personnel to the area to support the operation and maintenance of the E/F squadrons.

The Navy is currently evaluating East Coast installations to develop reasonable F/A–18 E/F siting alternatives. To date, four Navy and Marine Corps air stations have been identified as potential receiving sites: Marine Corps Air Station (MCAS) Beaufort, South Carolina; MCAS Cherry Point, North Carolina; Naval Air Station (NAS) Oceana, Virginia; and NAS Meridian, Mississippi. Other siting alternatives are still being considered. The Navy's preferred alternative is to site all the Atlantic fleet F/A–18 E/F squadrons at one location; however, splitting the squadrons between two bases is not precluded.

The Navy intends to analyze the potential environmental impacts of the

introduction of the Atlantic Fleet F/A–18 E/F aircraft on the environment. This includes, but is not limited to air quality, plant and animal habitats, and water resources, such as streams. It will also evaluate potential effects on the surrounding communities, including land use patterns, transportation, housing, and the regional economy. Further, the Navy will examine potential effects on existing airspace, training range use, and on aircraft noise exposure levels in and around the bases.

The Navy is initiating a scoping process to identify community concerns and local issues that will be addressed in the EIS. Federal, state, and local agencies, and interested persons are encouraged to provide oral and/or written comments to the Navy to identify environmental concerns that should be addressed in the EIS. To be most helpful, scoping comments should clearly describe the specific issues or topics that the EIS should address.

Written comments must be postmarked by September 8, 2000, and should be mailed to: Commander, Atlantic Division, Naval Facilities Engineering Command, 1510 Gilbert Street, Norfolk, Virginia 23511, Attn: Code 2032 (Mr. Dan Cecchini), telephone (757) 322–4887, fax (757) 322–4984.

Dated: June 21, 2000.

**C.G. Carlson,**

*Major, U.S. Marine Corps, Alternate Federal Register Liaison Officer.*

[FR Doc. 00–16116 Filed 6–23–00; 8:45 am]

**BILLING CODE 3810–FF–U**

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Regulatory Information Management, 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 August 25, 2000.

**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, 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: June 20, 2000.

**John Tressler,**

*Leader Regulatory Information Management, Office of the Chief Information Officer.*

**Office of the Undersecretary**

*Type of Review:* New.

*Title:* Teacher Quality Enhancement Grants Annual Performance Reports.

*Frequency:* Annually.

*Affected Public:* Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 77.

Burden Hours: 10,388.

*Abstract:* There are three types of grants under the Teacher Quality Enhancement Grants Program: State Grants, Partnership Grants, and Recruitment Grants. The grantees of each program must annually submit the performance reports to the Department of Education so that the Department can evaluate the performance of grantees prior to awarding continuation grants, as well as use the data for their annual reports to Congress, as required by the Government's Performance and Results Act of 1993. The grantees are also legislatively mandated to submit annual reports to Congress on their progress toward the programs' goals.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@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 Jacqueline Montague at (202) 708–5359 or via her internet address Jackie_Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–16030 Filed 6–23–00; 8:45 am]

**BILLING CODE 4000–01–U**

## DEPARTMENT OF EDUCATION

### William D. Ford Federal Direct Loan Program

**ACTION:** Notice of the annual updates to the income contingent repayment (ICR) plan formula; correction.

**SUMMARY:** On May 25, 2000, a notice was published in the **Federal Register** (65 FR 34006–34007) announcing the annual update to the income percentage factors for 2000 which are used to calculate the borrower's monthly payment amount under the income contingent repayment plan in the William D. Ford Direct Loan Program. This information is revised annually to reflect changes in the consumer price index.

**Correction**

The charts showing sample monthly repayment amounts, mentioned on page 34006, were inadvertently excluded. The charts are (pages 4 and 5) attached to this notice.

**FOR FURTHER INFORMATION CONTACT:** Don Watson, U.S. Department of Education, Room 3045, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202–5400. Telephone: (202) 708–8242. 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 alternate format (*e.g.,* Braille, large print,

audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

**Electronic Access to This Document**

You may review 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 sites:

*http://ocfo.ed.gov/fedreg.htm*

*http://www.ed.gov/news.html*

To use the PDF, you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498 or in the Washington D.C., area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: http://www.access.gpo.gov/nara/index.html

(Catalog of Federal Domestic Assistance Number 84.268 William D. Ford Federal Direct Loan Program)

(Program Authority: 20 U.S.C. 1087 *et seq.*)

Dated: June 20, 2000.

**Greg Woods,**

*Chief Operating Officer.*

BILLING CODE 400–01–P

**Sample First-Year Monthly Repayment Amounts for a Single Borrower at various Income and Debt Levels**

| Income | Initial Debt | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $2,500 | $5,000 | $ 7,500 | $10,000 | $12,500 | $15,000 | $17,500 | $20,000 | $22,500 | $25,000 | $30,000 | $35,000 | $40,000 | $45,000 | $50,000 | $55,000 | $60,000 | $65,000 | $70,000 | $75,000 | $80,000 | $85,000 | $90,000 | $100,000 |
| $ 1,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9,000 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 |
| 10,000 | 16 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 |
| 12,500 | 16 | 32 | 49 | 65 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 | 69 |
| 15,000 | 17 | 34 | 51 | 68 | 85 | 102 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 |
| 17,500 | 18 | 36 | 55 | 73 | 91 | 109 | 127 | 145 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 |
| 20,000 | 19 | 39 | 58 | 78 | 97 | 117 | 136 | 155 | 175 | 194 | 194 | 194 | 194 | 194 | 194 | 194 | 194 | 194 | 194 | 194 | 194 | 194 | 194 | 194 |
| 22,500 | 21 | 42 | 63 | 83 | 104 | 125 | 146 | 167 | 188 | 209 | 236 | 236 | 236 | 236 | 236 | 236 | 236 | 236 | 236 | 236 | 236 | 236 | 236 | 236 |
| 25,000 | 22 | 44 | 67 | 89 | 111 | 133 | 156 | 178 | 200 | 222 | 267 | 278 | 278 | 278 | 278 | 278 | 278 | 278 | 278 | 278 | 278 | 278 | 278 | 278 |
| 30,000 | 24 | 48 | 72 | 96 | 120 | 144 | 168 | 193 | 217 | 241 | 289 | 339 | 361 | 361 | 361 | 361 | 361 | 361 | 361 | 361 | 361 | 361 | 361 | 361 |
| 35,000 | 26 | 52 | 78 | 104 | 130 | 156 | 182 | 208 | 234 | 260 | 312 | 364 | 416 | 444 | 444 | 444 | 444 | 444 | 444 | 444 | 444 | 444 | 444 | 444 |
| 40,000 | 27 | 55 | 82 | 110 | 137 | 164 | 192 | 219 | 247 | 274 | 329 | 384 | 438 | 493 | 528 | 528 | 528 | 528 | 528 | 528 | 528 | 528 | 528 | 528 |
| 45,000 | 27 | 55 | 82 | 110 | 137 | 164 | 192 | 219 | 247 | 274 | 329 | 384 | 438 | 493 | 548 | 603 | 611 | 611 | 611 | 611 | 611 | 611 | 611 | 611 |
| 50,000 | 29 | 57 | 86 | 115 | 143 | 172 | 201 | 229 | 258 | 287 | 344 | 401 | 459 | 516 | 574 | 631 | 688 | 694 | 694 | 694 | 694 | 694 | 694 | 694 |
| 55,000 | 30 | 61 | 91 | 122 | 152 | 182 | 213 | 243 | 274 | 304 | 365 | 426 | 486 | 547 | 608 | 669 | 730 | 778 | 778 | 778 | 778 | 778 | 778 | 778 |
| 60,000 | 32 | 63 | 95 | 126 | 158 | 189 | 221 | 252 | 284 | 315 | 378 | 441 | 504 | 567 | 631 | 694 | 757 | 820 | 861 | 861 | 861 | 861 | 861 | 861 |
| 65,000 | 33 | 65 | 98 | 130 | 163 | 195 | 228 | 260 | 293 | 326 | 391 | 456 | 521 | 586 | 651 | 716 | 781 | 846 | 911 | 944 | 944 | 944 | 944 | 944 |
| 70,000 | 34 | 67 | 101 | 134 | 168 | 201 | 235 | 269 | 302 | 336 | 403 | 470 | 537 | 604 | 672 | 739 | 806 | 873 | 940 | 1007 | 1028 | 1028 | 1028 | 1028 |
| 75,000 | 34 | 69 | 103 | 138 | 172 | 207 | 241 | 276 | 310 | 345 | 413 | 482 | 551 | 620 | 689 | 758 | 827 | 896 | 965 | 1034 | 1102 | 1111 | 1111 | 1111 |
| 80,000 | 35 | 71 | 106 | 141 | 176 | 212 | 247 | 282 | 317 | 353 | 423 | 494 | 564 | 635 | 705 | 776 | 846 | 917 | 988 | 1058 | 1129 | 1194 | 1194 | 1194 |
| 85,000 | 36 | 72 | 108 | 144 | 180 | 217 | 253 | 289 | 325 | 361 | 433 | 505 | 577 | 650 | 722 | 794 | 866 | 938 | 1010 | 1083 | 1155 | 1227 | 1278 | 1278 |
| 90,000 | 37 | 74 | 111 | 148 | 185 | 221 | 258 | 295 | 332 | 369 | 443 | 517 | 590 | 664 | 738 | 812 | 886 | 959 | 1033 | 1107 | 1181 | 1255 | 1328 | 1361 |
| 95,000 | 38 | 75 | 113 | 151 | 189 | 226 | 264 | 302 | 339 | 377 | 453 | 528 | 604 | 679 | 754 | 830 | 905 | 981 | 1056 | 1132 | 1207 | 1282 | 1358 | 1444 |
| 100,000 | 39 | 77 | 116 | 154 | 193 | 231 | 270 | 308 | 347 | 385 | 462 | 540 | 617 | 694 | 771 | 848 | 925 | 1002 | 1079 | 1156 | 1233 | 1310 | 1387 | 1528 |

Sample repayment amounts are based on an interest rate of 8.25%.

**Sample First-Year Monthly Repayment Amounts for a Married or Head-of-household Borrower at various Income and Debt Levels**

Family Size = 3

| Income | Initial Debt | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $ 2,500 | $ 5,000 | $ 7,500 | $ 10,000 | $ 12,500 | $ 15,000 | $ 17,500 | $ 20,000 | $ 22,500 | $ 25,000 | $ 30,000 | $ 35,000 | $ 40,000 | $ 45,000 | $ 50,000 | $ 55,000 | $ 60,000 | $ 65,000 | $ 70,000 | $ 75,000 | $ 80,000 | $ 85,000 | $ 90,000 | $ 100,000 |
| $ 1,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 12,500 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 15,000 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 |
| 17,500 | 17 | 35 | 52 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 | 56 |
| 20,000 | 19 | 37 | 56 | 75 | 93 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 | 98 |
| 22,500 | 20 | 40 | 59 | 79 | 99 | 119 | 138 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 | 139 |
| 25,000 | 21 | 42 | 63 | 84 | 105 | 125 | 146 | 167 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 | 181 |
| 30,000 | 24 | 47 | 71 | 94 | 118 | 142 | 165 | 189 | 213 | 236 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 |
| 35,000 | 26 | 52 | 78 | 104 | 129 | 155 | 181 | 207 | 233 | 259 | 311 | 348 | 348 | 348 | 348 | 348 | 348 | 348 | 348 | 348 | 348 | 348 | 348 | 348 |
| 40,000 | 27 | 55 | 82 | 110 | 137 | 164 | 192 | 219 | 247 | 274 | 329 | 384 | 431 | 431 | 431 | 431 | 431 | 431 | 431 | 431 | 431 | 431 | 431 | 431 |
| 45,000 | 27 | 55 | 82 | 110 | 137 | 164 | 192 | 219 | 247 | 274 | 329 | 384 | 438 | 493 | 514 | 514 | 514 | 514 | 514 | 514 | 514 | 514 | 514 | 514 |
| 50,000 | 28 | 56 | 85 | 113 | 141 | 169 | 197 | 226 | 254 | 282 | 339 | 395 | 451 | 508 | 564 | 598 | 598 | 598 | 598 | 598 | 598 | 598 | 598 | 598 |
| 55,000 | 29 | 56 | 82 | 117 | 147 | 176 | 205 | 235 | 264 | 293 | 352 | 410 | 469 | 528 | 586 | 645 | 681 | 681 | 681 | 681 | 681 | 681 | 681 | 681 |
| 60,000 | 30 | 59 | 85 | 122 | 152 | 182 | 213 | 243 | 274 | 304 | 365 | 426 | 487 | 547 | 608 | 669 | 730 | 764 | 764 | 764 | 764 | 764 | 764 | 764 |
| 65,000 | 32 | 61 | 95 | 126 | 158 | 189 | 221 | 252 | 284 | 315 | 378 | 441 | 504 | 567 | 630 | 693 | 756 | 819 | 848 | 848 | 848 | 848 | 848 | 848 |
| 70,000 | 33 | 63 | 98 | 130 | 163 | 196 | 228 | 261 | 293 | 326 | 391 | 456 | 522 | 587 | 652 | 717 | 782 | 848 | 913 | 931 | 931 | 931 | 931 | 931 |
| 75,000 | 34 | 65 | 101 | 135 | 168 | 202 | 236 | 270 | 303 | 337 | 404 | 472 | 539 | 607 | 674 | 741 | 809 | 876 | 944 | 1011 | 1014 | 1014 | 1014 | 1014 |
| 80,000 | 35 | 67 | 104 | 139 | 173 | 208 | 243 | 277 | 312 | 346 | 416 | 485 | 554 | 624 | 693 | 762 | 831 | 901 | 970 | 1039 | 1098 | 1098 | 1098 | 1098 |
| 85,000 | 35 | 69 | 106 | 142 | 177 | 213 | 248 | 283 | 319 | 354 | 425 | 496 | 567 | 638 | 708 | 779 | 850 | 921 | 992 | 1063 | 1133 | 1181 | 1181 | 1181 |
| 90,000 | 36 | 71 | 109 | 145 | 181 | 217 | 253 | 290 | 326 | 362 | 434 | 507 | 579 | 652 | 724 | 796 | 869 | 941 | 1014 | 1086 | 1159 | 1237 | 1264 | 1264 |
| 95,000 | 37 | 74 | 111 | 148 | 185 | 222 | 259 | 296 | 333 | 370 | 444 | 518 | 592 | 666 | 740 | 814 | 888 | 962 | 1036 | 1110 | 1184 | 1258 | 1332 | 1348 |
| 100,000 | 38 | 76 | 113 | 151 | 189 | 227 | 264 | 302 | 340 | 378 | 453 | 529 | 604 | 680 | 755 | 831 | 906 | 982 | 1058 | 1133 | 1209 | 1286 | 1360 | 1431 |

Sample repayment amounts are based on an interest rate of 8.25%.

[FR Doc. 00–16040 Filed 6–23–00; 8:45 am]

BILLING CODE 4000–01–C

## DEPARTMENT OF ENERGY

### Notice of Availability of Solicitation

**AGENCY:** Idaho Operations Office, Department of Energy.

**ACTION:** Notice of availability of solicitation-alternate fuel vehicle user infrastructure.

**SUMMARY:** The U.S. Department of Energy (DOE), Idaho Operations Office (ID), is seeking applications from interested parties to develop and deploy cost-shared alternative fuel infrastructure projects in any of the six Federal Alternate Fuel Vehicle (AFV) USER Program Metropolitan Statistical Area (MSA's) (cities). The six MSA's are San Francisco, CA, Denver, CO, Albuquerque, NM, Minneapolis, MN, Salt Lake City, UT, and Melborne-Titusville, FL. The proposing teams must have the ability to deploy alternative fuel infrastructure projects, in one or more, of the six MSAs, primarily for the use of alternate fuel vehicles in federal fleets; and secondly for state and local government fleets, commercial fleets, and alternative fuel vehicles owned and operated by the public. These projects will aid in the removal of the ''infrastructure availability'' barrier to alternative fuel use, thereby supporting the marketability of alternative fuel vehicles. Projects that are already built do not qualify for this grant. The expected issuance date of Solicitation No. DE-PS07–00ID13951, is June 22, 2000. The solicitation will be available in its full text via the Internet at the following URL: *http://www.id.doe.gov/doeid/PSD/proc-div.html*.

**DATES:** The deadline for receipt of applications will be August 24, 2000.

**ADDRESSES:** Applications should be submitted to: Procurement Services Division, U.S. Department of Energy, Idaho Operations Office, Attention: Connie Osborne, [DE–PS07–00ID13951], 850 Energy Drive, MS–1221, Idaho Falls, Idaho 83401–1563.

**FOR FURTHER INFORMATION CONTACT:** Connie Osborne, Contract Specialist, at osbornch@id.doe.gov

**SUPPLEMENTARY INFORMATION:** The statutory authority for this program is Energy Policy Act of 1992 (Public Law 102–486 as amended by Public Law 103–437 on November 2, 1994). DOE anticipates making up to 6 awards with a total estimated DOE funding of $100,000 per award, each with a duration of two years or less. Multi-partner collaborations including Federal Agencies and/or National Laboratories are encouraged. Single organizations will not be considered. As a minimum each applicant's team must include an energy provider (*i.e.*, electric utility, natural gas utility, or other) as a participant. This solicitation will require a fifty per cent (50%) minimum non-federal cost share. Federal Agencies and/or National Laboratories will not be eligible for an award under this solicitation, except as a partner with another, eligible primary applicant. However, an application that includes performance of a portion of the work by a National Laboratory may be considered for award provided the applicant clearly identifies the unique capabilities, facilities and or expertise the Laboratory offers the primary applicant. It is anticipated that the following criteria will be considered in the evaluation: (1) Suitability of Alternative Fuel Infrastructure; (2) Level of Project Detail provided; (3) Experience of Team; (4) Costs. Technical and non-technical questions should be submitted in writing to Connie Osborne by e-mail at *osbornch@id.doe.gov*, or facsimile at 208–526–5548 no later than July 13, 2000.

Issued in Idaho Falls on June 22, 2000.

**R. Jeffrey Hoyles,**

*Director, Procurement Services Division.*

[FR Doc. 00–16047 Filed 6–23–00; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Sandia

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM–SSAB), Kirtland Area Office (Sandia)

**DATE:** Wednesday, July 12, 2000: 6 p.m.–9 p.m. (MST).

**ADDRESSES:** Loma Linda Community Center, 1700 Yale Street, SE, Albuquerque, NM 87106.

**FOR FURTHER INFORMATION CONTACT:** Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, MS–0184, Albuquerque, NM 87185 (505) 845–4094.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

*Tentative Agenda:*

6 p.m.—Check-In/Agenda Approval/Minutes

6:15 p.m.—Meeting Manager Update

6:30 p.m.—Public Comment (General Topics)

6:40 p.m.—Private Contractor—Mixed Waste Landfill (MWLF) Report

7:25 p.m.—Break

7:40 p.m.—Public Comment on MWLF Issue

7:50 p.m.—Citizens' Advisory Board Consensus on MWLF Issue

8:10 p.m.—History of Citizen Advisory Board

8:30 p.m.—Transition Plan Long-Term Stewardship Community Resources Group

8:50 p.m. Adjourn

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, MS–0184, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on June 20, 2000.

**Rachel Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 00–16046 Filed 6–23–00; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Oak Ridge. The Federal Advisory Committee Act (Public Law No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Wednesday, July 5, 2000: 6:00–9:30 p.m.

**ADDRESSES:** Garden Plaza, 215 S. Illinois Avenue, Oak Ridge, TN.

**FOR FURTHER INFORMATION CONTACT:** Dave Adler, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, (865) 576–4049.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

*Tentative Agenda:*

1. Waste disposal options, presented by representatives from Envirocare, the Nevada Test Site, and the Waste Isolation Plant Program.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Carol Davis at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

*Minutes:* Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Dave Adler, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling him at (865) 576–4049.

Issued at Washington, DC on June 20, 2000.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 00–16048 Filed 6–23–00; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Idaho

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL). Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:**

Monday, July 17, 2000—8:00 a.m.–5:00 p.m. (Site Tour)

Tuesday, July 18, 2000—8:00 a.m.–6:00 p.m.

Wednesday, July 19, 2000—8:00 a.m.–5:00 p.m.

**ADDRESSES:** Ameritel Inn, 645 Lindsay Boulevard, Idaho Falls, Idaho.

**FOR FURTHER INFORMATION CONTACT:** Ms. Wendy Lowe, INEEL SSAB Facilitator Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402, (208–522–1662) or visit the Board's Internet homepage at *http://www.ida.net/users/cab.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the INEEL.

*Tentative Agenda:*

Presentations and Discussions on the Following:

- Feasibility of developing a joint recommendation addressing containers used to ship waste to the Waste Isolation Pilot Plant with the Northern New Mexico SSAB.
- Fire in Los Alamos, New Mexico, and lessons learned from the fire (with members of the Los Alamos SSAB).
- Proposed relocation of the missions currently conducted at the Los Alamos National Laboratory Technical Area 18 (with members of the Los Alamos SSAB).
- The Waste Management Program at the Idaho National Engineering and Environmental Laboratory.
- The recent decision to cancel the incinerator for the Advanced Mixed Waste Treatment Project, the Blue Ribbon Panel reviewing treatment options, and the adequacy of National Environmental Policy Act documentation for the facility.
- The decision to shut down the high-level waste calciner and the implications of that decision on the National Environmental Policy Act documentation for the high-level waste program, and DOE's ability to comply with the Idaho Settlement Agreement.

Discussion and Finalization of the Following:

- Endorsement of the Common Principles developed by the Site Specific Advisory Board Chairs.
- Recommendation addressing changes in the delegation of authority for decision making regarding cleanup.

Presentation and Finalization of the Following:

- A recommendation on the Notice of Intent to shut down the Waste Experimental Reduction Facility incinerator.

(Agenda topics may change up to the day of the meeting; please call the **FOR FURTHER INFORMATION CONTACT** in this notice for the current agenda or visit the Internet site.)

*Public Participation:* This meeting is open to the public. Written statements may be filed with the Board facilitator before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact the Board Chair at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Jerry Bowman, Assistant Manager for Laboratory Development, Idaho Operations Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Every individual wishing to make public comment will be provided equal time to present their comments.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Stanely Hobson, INEEL CAB Chair, 477 Shoup

Ave., Suite 205, Idaho Falls, Idaho 83402 or by calling the Board's facilitator at (208) 522–1662.

Issued at Washington, DC on June 20, 2000.

**Rachel Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 00–16049 Filed 6–23–00; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Office of Science; Fusion Energy Sciences Advisory Committee

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Fusion Energy Sciences Advisory Committee. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Tuesday, July 18, 2000, 9:00 a.m. to 6:00 p.m.; Wednesday, July 19, 2000, 9:00 a.m. to 12:00 p.m.

**ADDRESSES:** General Atomics; 3550 General Atomics Court; Rm. 07/217, San Diego, California.

**FOR FURTHER INFORMATION CONTACT:** Albert L. Opdenaker, Office of Fusion Energy Sciences; U.S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: 301–903–4927.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Meeting:* The purpose of the meeting is to begin the Fusion Energy Sciences Advisory Committee review of the draft Integrated Program Plan (IPP) for Fusion Energy Sciences.

*Tentative Agenda*

Tuesday, July 18, 2000

- Report on the draft IPP
- Discussion of the draft IPP
- Tour of the DIII–D and the Inertial Fusion Target Laboratory
- Continue Discussions
- Public Comment
- Adjourn

Wednesday, July 19, 2000

- Continue Discussions
- Adjourn

*Public Participation:* The meeting is open to the public. Persons expecting to attend the meeting should contact Marion Stav via e-mail (marion.stav@gat.com) to facilitate badging procedures. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Albert L. Opdenaker at 301–903–8584 (fax) or albert.opdenaker@science.doe.gov (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

*Minutes:* We will make the minutes of this meeting available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190; Forrestal Building; 1000 Independence Avenue, SW; Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on June 20, 2000.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 00–16050 Filed 6–23–00; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–267–000]**

### ANR Pipeline Company; Notice of Technical Conference

June 20, 2000.

In the Commission's order issued on May 31, 2000,[1] the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Thursday July 6, 2000, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

All interested parties and Staff are permitted to attend.

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–16012 Filed 6–23–00; 8:45 am]

**BILLING CODE 6717–01–M**

[1] 91 FERC ¶ 61,195 (2000).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER00–2852–000]**

### Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, Southwestern Electric Power Company; Notice of Filing

June 19, 2000.

Take notice that on June 14, 2000, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO), and Southwestern Electric Power Company (SWEPCO) (collectively, the CSW Operating Companies) tendered for filing a notice pursuant to the Commission's order issued on May 8, 2000 in the matter of North American Electric Reliability Council, docket No. ER00–1666–000, stating that: (1) They use the North American Electric Reliability Council's revised Transmission Loading Relief procedures; and (2) their open access transmission service tariff shall be considered so modified. The TLR procedures will apply to those portions of the CSW Operating Companies' transmission systems that are located in the Eastern Interconnection.

The CSW Operating Companies request an effective date of March 1, 2000 for the TLR procedures, and therefore respectfully request waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 5, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–16015 Filed 6–23–00; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER00–2811–001]**

## ISO New England Inc.; Notice of Filing

June 20, 2000.

Take notice that on June 16, 2000, ISO New England Inc. (the ISO), submitted corrected rate schedule pages for certain of those included in Attachments 16, 17 and 20 to its June 12 filing in this proceeding.

Copies of these materials were sent to the Secretary of the NEPOOL Participants Committee, the NEPOOL Participants, non-Participant transmission customers and the six New England state governors and regulatory commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before June 26, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–16014 Filed 6–23–00; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP00–264–000]**

## Northern Natural Gas Company; Notice of Technical Conference

June 20, 2000.

In the Commission's order issued on May 31, 2000,[1] the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Wednesday, July 19, 2000, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

All interested parties and Staff are permitted to attend.

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–16013 Filed 6–23–00; 8:45 am]

**BILLING CODE 6717–01–M**

[1] 91 FERC ¶ 61,216 (2000).

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EG00–172–000, et al.]**

## CPV Gulfcoast, L.P., et al.; Electric Rate and Corporate Regulation Filings

June 19, 2000.

Take notice that the following filings have been made with the Commission:

### 1. CPV Gulfcoast, L.P.

[Docket No. EG00–172–000]

Take notice that on June 15, 2000, CPV Gulfcoast, L.P. (Applicant), c/o Competitive Power Ventures, L.P., 4061 Power Mill Road, Suite 700, Calverton, MD 20705, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant, a Florida limited partnership, is a special purpose entity established to develop, construct, own and operate a nominally rated 250 MW natural gas fired combined cycle generating facility (Facility) to be located in Piney Point, Manatee County, Florida. The Facility will consist of two (2) F class combustion turbines, two (2) heat recovery steam generators and a single steam turbine. The Facility as currently configured will include certain transmission interconnection facilities necessary to effect the sale of electric energy at wholesale and interconnect the Facility to the transmission grid. All of the electricity generated by the Facility will be sold exclusively at wholesale.

Comment date: July 10, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

### 2. Entergy Nuclear New York Investment Company I

[Docket No. EG00–173–000]

Take notice that on June 14, 2000, Entergy Nuclear New York Investment Company I, c/o RL&F Service Corp., One Rodney Square, 10th Floor, Tenth & King Street, Wilmington, DE, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. The applicant is a corporation that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposes to own indirectly a 50 percent interest in the James A. FitzPatrick Nuclear Power Plant and a 50 percent interest in the Indian Point Nuclear Generating Unit No. 3. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

*Comment date:* July 10, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

### 3. Entergy Nuclear FitzPatrick, LLC

[Docket No. EG00–174–000]

Take notice that on June 14, 2000, Entergy Nuclear FitzPatrick, LLC, 268 Lake Road East, Lycoming, NY 13093, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposes to own in its entirety the James A. FitzPatrick Nuclear Power Plant. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

*Comment date:* July 10, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

**4. Entergy Nuclear Indian Point 3, LLC**

[Docket No. EG00–175–000]

Take notice that on June 14, 2000, Entergy Nuclear Indian Point 3, LLC, Bleakley Avenue and Broadway, Buchanan, NY 10551, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposes to own in its entirety the Indian Point Nuclear Generating Unit No. 3. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

*Comment date:* July 10, 2000, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

**5. Entergy Nuclear New York Investment Company II**

[Docket No. EG00–176–000]

Take notice that on June 14, 2000, Entergy Nuclear New York Investment Company II, c/o RL&F Service Corp., One Rodney Square, 10th Floor, Tenth & King Street, Wilmington, DE, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. The applicant is a corporation that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposes to own indirectly a 50 percent interest in the James A. FitzPatrick Nuclear Power Plant and a 50 percent interest in the Indian Point Nuclear Generating Unit No. 3. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

*Comment date:* July 10, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

**6. Northeast Utilities Services Company**

[Docket No. ER00–2471–001]

Take notice that on May 14, 2000, Northeast Utilities Service Company (NUSCO), on behalf of its affiliate, The Connecticut Light and Power Company (CL&P), tendered unredacted copies of a certain Termination, Release and Settlement Agreement by and between Connecticut Yankee Atomic Power Company, CL&P and the Connecticut Municipal Electric Energy Cooperative (CMEEC), which had earlier been filed in redacted form in support of its Notice of Cancellation of the Federal Energy Regulatory Commission (FERC) rate schedules and supplements thereto for Unit Contract Connecticut Yankee, Rate Schedule FERC No. CL&P 225, filed on May 9, 2000.

Copies of the supplemental filing were served upon the jurisdictional customer, CMEEC, as well as upon CL&P and the Connecticut Department of Public Utilities Control.

*Comment date:* July 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**7. Mississippi Power Company and Southern Company Services, Inc.**

[Docket No. ER00–2824–000]

Take notice that on June 14, 2000, Mississippi Power Company and Southern Company Services, Inc., its agent, tendered for filing a Service Agreement, pursuant to the Southern Companies Electric Tariff Volume No. 4—Market Based Rate Tariff, with South Mississippi Electric Power Association for the Necaise Delivery Point to Coast Electric Power Association. The agreement will permit Mississippi Power to provide wholesale electric service to South Mississippi Electric Power Association at a new service delivery point.

Copies of the filing were served upon South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**8. PacifiCorp**

[Docket No. ER00–2825–000]

Take notice that on June 14, 2000, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a revised Long-term Firm Point-to-Point Transmission Service Agreement British Columbia Power Exchange Corporation (Powerex) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**9. MidAmerican Energy Company**

[Docket No. ER00–2826–000]

Take notice that on June 14, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, 2900 Ruan Center, Des Moines, Iowa 50309 tendered for filing proposed changes to its Open Access Transmission Tariff (OATT). The changes are for the purpose of updating the Index of Point-to-Point Transmission Service Customers and the Index of Network Integration Transmission Service Customers.

MidAmerican proposes that the rate schedule changes become effective on June 15, 2000 and requests a waiver of the Commissions notice requirements.

The proposed rate schedule changes have been mailed to all Transmission Customers having service agreements under the OATT, the Iowa Utilities Board and the Illinois Commission, the South Dakota Public Service Commission.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**10. MidAmerican Energy Company**

[Docket No. ER00–2827–000]

Take notice that on June 14, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Firm Transmission Service Agreement with Wisconsin Public Power Inc. (Wisconsin Public), dated May 22, 2000, and a Non-Firm Transmission Service Agreements with Wisconsin Public, dated May 22, 2000, and Alliant Energy Corporate Services, Inc. (Alliant), dated June 1, 2000, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of May 22, 2000 for the Agreements with Wisconsin Public and June 1, 2000 for the Agreement with Alliant, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Wisconsin Public, Alliant, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**11. Ameren Services Company**

[Docket No. ER00–2829–000]

Take notice that on June 14, 2000, Ameren Services Company (ASC), tendered for filing a Service Agreement for Market Based Rate Power Sales between ASC and Enron Power Marketing, Inc., (Enron). ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to Enron pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**12. Southern Company Services, Inc.**

[Docket No. ER00–2830–000]

Take notice that on June 14, 2000, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), tendered for filing one (1) service agreement for network integration transmission service between Southern Companies and Southern Wholesale Energy (a department of SCS), as agent for MPC, and one (1) service agreement for long term firm point-to-point transmission service between Southern Companies and Williams Energy Marketing & Trading Company under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Original Volume No. 5).

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**13. PacifiCorp**

[Docket No. ER00–2831–000]

Take notice that on June 14, 2000, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Notice of Filing Mutual Netting/ Closeout Agreements (Netting Agreements) between PacifiCorp and (1) PPL Montana, LLC (PPL Montana), (2) Southwestern Public Service Company (Southwestern), and (3) UtiliCorp United Inc., (UtiliCorp).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**14. PacifiCorp**

[Docket No. ER00–2832–000]

Take notice that on June 14, 2000, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, umbrella Transmission Service Agreements with El Paso Merchant Energy, LP (El Paso) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**15. Great Bay Power Corporation**

[Docket No. ER00–2834–000]

Take notice that on June 14, 2000, Great Bay Power Corporation (Great Bay), tendered for filing a service agreement between WPS Energy Services, Inc. and Great Bay for service under Great Bay's revised Market-Based Rate Power Sales Tariff (Tariff). This Tariff was accepted for filing by the Commission on May 31, 2000, in Docket No. ER00–2211–000.

The service agreement is proposed to be effective June 1, 2000.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**16. Central Power and Light Company**

[Docket No. ER00–2835–000]

Take notice that on June 14, 2000, Central Power and Light Company (CPL), tendered for filing an Interconnection Agreement between CPL and Medina Electric Cooperative, Inc. (Medina).

CPL requests an effective date for the Interconnection Agreement of June 15, 2000. Accordingly, CPL requests waiver of the Commission's notice requirements.

CPL states that a copy of the filing was served on Medina, South Texas Electric Cooperative, Inc., and the Public Utility Commission of Texas.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**17. Commonwealth Edison Company**

[Docket No. ER00–2836–000]

Take notice that on June 14, 2000, Commonwealth Edison Company (ComEd) tendered for filing a MBR Sales Agreement establishing NewEnergy Midwest, LLC, as a customer under ComEd's FERC Electric Market Based-Rate Schedule for power sales.

ComEd requests an effective date of May 16, 2000 for the agreement and accordingly seeks waiver of the Commission's notice requirements.

Copies of the filing were served on NewEnergy Midwest LLC.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**18. Commonwealth Edison Company**

[Docket No. ER00–2837–000]

Take notice that on June 14, 2000, Commonwealth Edison Company (ComEd), tendered for filing Amendment No. 1 (Amendment), to the Network Service Agreement dated December 10, 1999 (NSA) between ComEd and Nicor Energy, L.L.C. (Nicor), and Amendment No. 1 (Amendment), to the Network Service Agreement dated November 1, 1999 (NSA) between ComEd and Central Illinois Light Company (CILCO). The Amendments extend the termination dates of the NSAs previously filed on December 22, 1999 in Docket No. ER00–884 between ComEd and Nicor; and on November 22, 1999 in Docket No. ER00–622 between ComEd and CILCO. The NSAs govern ComEd's provision of network service to serve retail load under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of May 15, 2000 for the NSAs, and therefore ComEd seeks waiver of the Commission's notice requirements.

Copies of this filing were served on Nicor and CILCO.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**19. Wisconsin Electric Power Company**

[Docket No. ER00–2838–000]

Take notice that on June 14, 2000, Wisconsin Electric Power Company tendered for filing an amendment to its FERC Electric Tariff No. 1, Wholesale Power Service—Schedule W. The amendment provides that as of June 15, 2000 Wisconsin Electric will not accept any new bundled wholesale power customers and that unbundled transmission service is terminated.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**20. Virginia Electric and Power Company**

[Docket No. ER00–2839–000]

Take notice that on June 14, 2000, Virginia Electric and Power Company (Virginia Power), tendered for filing a market-based rate tariff, including a form of umbrella service agreement and

code of conduct. The proposed market-based rate tariff does not replace Virginia Power's existing market-based rate tariff, FERC Electric Tariff, Volume No. 4.

Virginia Power requests waiver of the Commission's notice of filing requirements to allow the proposed market-based rate tariff to become effective on June 15, 2000, the day after filing.

Copies of the filing were served upon Virginia Power's customers under its existing market-based rate tariff and the Virginia State Corporation Commission.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**21. Commonwealth Edison Company**

[Docket No. ER00–2851–000]

Take notice that on June 14, 2000, Commonwealth Edison Company (ComEd), tendered for filing an executed service agreement for NewEnergy Midwest, LLC, under ComEd's FERC Electric Market Based-Rate Schedule for power sales.

ComEd requests and effective date of May 16, 2000 for the service agreements and accordingly seeks waiver of the Commission's notice requirements.

Copies of this filing were served on NewEnergy.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**22. PacifiCorp**

[Docket No. ER00–2833–000]

Take notice that on June 14, 2000, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Long-term Firm Point-to-Point Transmission Service Agreement with the State of South Dakota (South Dakota) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

*Comment date:* July 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–16011 Filed 6–23–00; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Sunshine Act Meeting

June 21, 2000.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**DATE AND TIME:** June 28, 2000, 10:00 a.m.

**PLACE:** Room 2C, 888 First Street, NE, Washington, DC 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

**Note.—**Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** David P. Boergers, Secretary, telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

**744th—Meeting June 28, 2000—Regular Meeting (10:00 a.m.)**

**Consent Agenda—Markets, Tariffs and Rates—Electric**

CAE–1.
DOCKET# ER00–2361, 000, AMEREN SERVICES COMPANY
OTHER#S ER00–2365, 000, AMEREN SERVICES COMPANY
ER00–2364, 000, AMEREN SERVICES COMPANY
ER00–2364, 001, AMEREN SERVICES COMPANY
ER00–2365, 001, AMEREN SERVICES COMPANY

CAE–2.
DOCKET# ER00–2362, 000, AMEREN SERVICES COMPANY
OTHER#S ER00–2366, 000, AMEREN SERVICES COMPANY
ER00–2367, 000, AMEREN SERVICES COMPANY

CAE–3.
DOCKET# ER00–2396, 000, ENERGETIX, INC.

CAE–4. OMITTED

CAE–5.
DOCKET# ER00–2383, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

CAE–6.
DOCKET# ER00–2735, 000, NEW ENGLAND POWER POOL

CAE–7.
DOCKET# ER99–2854, 000, ENTERGY OPERATING COMPANIES
OTHER#S EL99–87, 000, ENTERGY OPERATING COMPANIES
EL99–87, 001, ENTERGY OPERATING COMPANIES
ER99–2854, 001, ENTERGY OPERATING COMPANIES

CAE–8.
DOCKET# ER00–2049, 000, WPS RESOURCES OPERATING COMPANIES

CAE–9.
DOCKET# EC00–86, 000, DTE ENERGY COMPANY, THE DETROIT EDISON COMPANY AND INTERNATIONAL TRANSMISSION COMPANY

CAE–10.
DOCKET# EC00–55, 000, CP&L HOLDINGS, INC.

CAE–11.
DOCKET# ER00–2413, 000, AMERICAN ELECTRIC POWER SERVICE CORPORATION

CAE–13.
DOCKET# ER00–2470, 000, MID-CONTINENT AREA POWER POOL

CAE–14.
DOCKET# ER00–2454, 000, WISCONSIN ELECTRIC POWER COMPANY

CAE–15.
DOCKET# EC00–84, 000, WISCONSIN PUBLIC SERVICE CORPORATION AND UPPER PENINSULA POWER COMPANY

CAE–16.
DOCKET# EC00–46, 000, VERMONT YANKEE NUCLEAR POWER CORPORATION, VERMONT ELECTRIC POWER COMPANY, INC. AND AMERGEN VERMONT, L.L.C.
OTHER#S ER00–1027, 000, VERMONT YANKEE NUCLEAR POWER CORPORATION, VERMONT ELECTRIC POWER COMPANY, INC. AND AMERGEN VERMONT, L.L.C.
ER00–1028, 000, VERMONT YANKEE NUCLEAR POWER CORPORATION, VERMONT ELECTRIC POWER COMPANY, INC. AND AMERGEN VERMONT, L.L.C.
ER00–1029, 000, VERMONT YANKEE NUCLEAR POWER CORPORATION, VERMONT ELECTRIC POWER COMPANY,

INC. AND AMERGEN VERMONT, L.L.C.
CAE–17.
DOCKET# SC00–1, 000, THE MONTANA POWER COMPANY
CAE–18.
DOCKET# ER00–2429, 000, UNICOM ENERGY, INC.
CAE–19.
DOCKET# ER00–2375, 000, THE MONTANA POWER COMPANY
CAE–20.
DOCKET# ER00–1239, 001, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–21.
DOCKET# EL97–19, 002, WISCONSIN POWER & LIGHT COMPANY
OTHER#S SC97–3, 002, WISCONSIN POWER & LIGHT COMPANY
CAE–22.
DOCKET# EC00–67, 000, LOUISVILLE GAS AND ELECTRIC COMPANY, KENTUCKY UTILITIES COMPANY AND POWERGEN PLC
CAE–23.
DOCKET# TX99–2, 001, PRAIRIELAND ENERGY, INC.
CAE–24.
DOCKET# EL98–46, 003, LAGUNA IRRIGATION DISTRICT
OTHER#S ER99–3145, 001, PACIFIC GAS AND ELECTRIC COMPANY
EL99–50, 001, FRESNO IRRIGATION DISTRICT
ER99–3713, 001, PACIFIC GAS AND ELECTRIC COMPANY
CAE–25.
DOCKET# RM95–9, 009, OPEN ACCESS SAME–TIME INFORMATION SYSTEM AND STANDARDS OF CONDUCT
CAE–26.
DOCKET# ER00–555, 002, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–27.
DOCKET# ER00–1641, 001, CALIFORNIA POWER EXCHANGE CORPORATION
OTHER#S ER00–1642, 002, CALIFORNIA POWER EXCHANGE CORPORATION
CAE–28. OMITTED
CAE–29. OMITTED
CAE–30.
DOCKET# EG00–150, 000, WILLIAMS FLEXIBLE GENERATION, LLC
CAE–31.
DOCKET# OA00–4, 001, INDIANAPOLIS POWER AND LIGHT COMPANY
OTHER#S OA00–4, 002, INDIANAPOLIS POWER AND LIGHT COMPANY
CAE–32.
DOCKET# OA99–3, 000, ALCOA POWER GENERATING, INC.
CAE–33.
DOCKET# EL00–49, 000, NRG POWER MARKETING, INC. V. NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
CAE–34.
DOCKET# EL00–62, 000, ISO NEW ENGLAND, INC.
OTHER#S EL00–59, 000, ISO NEW ENGLAND, INC
EL00–62, 001, ISO NEW ENGLAND, INC.
EL00–62, 002, ISO NEW ENGLAND, INC.
ER00–2005, 000, ISO NEW ENGLAND, INC.
ER00–2016, 000, ISO NEW ENGLAND, INC.
ER00–2052, 000, ISO NEW ENGLAND, INC.
ER00–2052, 002, ISO NEW ENGLAND, INC.
ER00–2052, 003, ISO NEW ENGLAND, INC.
CAE–35.
DOCKET# EL00–67, 000, STRATEGIC POWER MANAGEMENT, INC. V. NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
CAE–36.
DOCKET# EL00–70, 000, NEW YORK STATE ELECTRIC & GAS CORPORATION V. NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
OTHER#S EL00–70, 001, NEW YORK STATE ELECTRIC & GAS CORPORATION V. NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
ER00–2624, 000, NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
CAE–37.
DOCKET# ER93–540, 009, AMERICAN ELECTRIC POWER SERVICE CORPORATION
CAE–38.
DOCKET# ER00–1, 001, TRANSENERGIE U.S. LTD.
CAE–39.
DOCKET# EL00–75, 000, NOTICE OF INTERIM PROCEDURES TO SUPPORT INDUSTRY RELIABILITY EFFORTS AND REQUEST FOR COMMENTS

**Consent Agenda—Markets, Tariffs and Rates—Gas**

CAG–1.
DOCKET# RP91–203, 071, TENNESSEE GAS PIPELINE COMPANY
OTHER#S RP92–132, 059, TENNESSEE GAS PIPELINE COMPANY
CAG–2.
DOCKET# RP00–21, 003, DOMINION TRANSMISSION, INC.
OTHER#S RP00–21, 004, DOMINION TRANSMISSION, INC.
RP00–21, 005, DOMINION TRANSMISSION, INC.
CAG–3.
DOCKET# RP96–129, 011, TRUNKLINE GAS COMPANY
CAG–4.
DOCKET# RP00–274, 000, RELIANT ENERGY GAS TRANSMISSION COMPANY
CAG–5.
DOCKET# RP00–233, 001, MIDWESTERN GAS TRANSMISSION COMPANY
CAG–6.
DOCKET# RP00–291, 000, TRUNKLINE LNG COMPANY
CAG–7.
DOCKET# RP00–305, 000, MISSISSIPPI RIVER TRANSMISSION CORPORATION
CAG–8.
DOCKET# RP00–290, 000, NAUTILUS PIPELINE COMPANY, L.L.C.
CAG–9.
DOCKET# RP00–292, 000, ANR PIPELINE COMPANY
CAG–10.
DOCKET# RP00–308, 000, ANR PIPELINE COMPANY
OTHER#S RP00–308, 001, ANR PIPELINE COMPANY
CAG–11.
DOCKET# RP00–314, 000, DISCOVERY GAS TRANSMISSION LLC
CAG–12.
OMITTED
CAG–13.
DOCKET# RP00–285, 000, NORTHWEST ALASKAN PIPELINE COMPANY
CAG–14.
DOCKET# RP00–306, 000, TENNESSEE GAS PIPELINE COMPANY
CAG–15.
DOCKET# RP96–312, 028, TENNESSEE GAS PIPELINE COMPANY
CAG–16.
OMITTED
CAG–17.
DOCKET# RP99–355, 002, BALTIMORE GAS AND ELECTRIC COMPANY
CAG–18.
DOCKET# RP96–275, 007, TENNESSEE GAS PIPELINE COMPANY
CAG–19.
DOCKET# RP00–229, 001, TENNESSEE GAS PIPELINE COMPANY
CAG–20.

DOCKET# RP00–296, 000, SOUTH GEORGIA NATURAL GAS COMPANY
CAG–21.
DOCKET# RP00–108, 002, QUESTAR PIPELINE COMPANY
CAG–22.
DOCKET# PR00–2, 000, LEE 8 STORAGE PARTNERSHIP
OTHER#S PR00–2, 001, LEE 8 STORAGE PARTNERSHIP
CAG–23.
DOCKET# PR00–8, 000, PG&E TEXAS PIPELINE, L.P.
OTHER#S PR00–8, 001, PG&E TEXAS PIPELINE, L.P.
CAG–24.
DOCKET# RP00–136, 001, EL PASO NATURAL GAS COMPANY
CAG–25.
DOCKET# RP00–287, 000, GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP AND OCEAN ENERGY RESOURCES, INC.
CAG–26.
DOCKET# RP88–68, 042, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
OTHER#S IN89–1, 003, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–27.
DOCKET# RM96–1, 014, STANDARDS FOR BUSINESS PRACTICES OF INTERSTATE NATURAL GAS PIPELINES
CAG–28.
DOCKET# RM96–1, 015, STANDARDS FOR BUSINESS PRACTICES OF INTERSTATE NATURAL GAS PIPELINES
CAG–29.
DOCKET# RP95–112, 023, TENNESSEE GAS PIPELINE COMPANY
OTHER#S RP95–112, 024, TENNESSEE GAS PIPELINE COMPANY
CAG–30.
DOCKET# RS92–11, 023, TEXAS EASTERN TRANSMISSION CORPORATION
OTHER#S RS92–11, 025, TEXAS EASTERN TRANSMISSION CORPORATION
RP94–299, 003, TEXAS EASTERN TRANSMISSION CORPORATION
RP94–299, 004, TEXAS EASTERN TRANSMISSION CORPORATION
CAG–31.
DOCKET# RP00–241, 000, PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA V. EL PASO NATURAL GAS COMPANY, EL PASO MERCHANT ENERGY-GAS, L.P. AND EL PASO MERCHANT ENERGY COMPANY

**Consent Agenda—Energy Projects—Hydro**

CAH–1.
DOCKET# DI97–8, 002, GEORGIA-PACIFIC CORPORATION
OTHER#S DI97–9, 002, GEORGIA-PACIFIC CORPORATION
CAH–2.
DOCKET# P–3218, 038, CITY OF ORRVILLE, OHIO
OTHER#S P–6901, 046, CITY OF NEW MARTINSVILLE, WEST VIRGINIA
P–6902, 059, CITY OF NEW MARTINSVILLE, WEST VIRGINIA
CAH–3.
OMITTED
CAH–4.
DOCKET# UL96–17, 006, CHIPPEWA & FLAMBEAU IMPROVEMENT COMPANY
OTHER#S UL96–16, 006, CHIPPEWA & FLAMBEAU IMPROVEMENT COMPANY
CAH–5.
OMITTED
CAH–6.
DOCKET# P–2588, 005, CITY OF KAUKAUNA, WISCONSIN

**Consent Agenda—Energy Projects—Certificates**

CAC–1.
DOCKET# CP99–599, 000, PAIUTE PIPELINE COMPANY
OTHER#S CP99–599, 001, PAIUTE PIPELINE COMPANY
CAC–2.
DOCKET# CP96–178, 005, MARITIMES & NORTHEAST PIPELINE, L.L.C.
OTHER#S CP96–809, 000, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP96–809, 002, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP96–809, 003, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP96–809, 004, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP96–810, 000, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP96–810, 001, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP97–238, 005, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CAC–3.
OMITTED
CAC–4.
DOCKET# CP99–262, 001, TENNESSEE GAS PIPELINE COMPANY
CAC–5.
DOCKET# CP96–178, 013, MARITIMES & NORTHEAST PIPELINE, L.L.C.
OTHER#S CP96–809, 011, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP96–810, 005, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP97–238, 011, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP98–724, 002, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CP98–797, 002, MARITIMES & NORTHEAST PIPELINE, L.L.C.
CAC–6.
DOCKET# CP00–35, 001, EQUITRANS, L.P.

**Energy Projects—Hydro Agenda**

H–1.
RESERVED

**Energy Projects—Certificates Agenda**

C–1.
RESERVED

**Markets, Tariffs and Rates—Electric Agenda**

E–1.
RESERVED

**Markets, Tariffs and Rates—Gas Agenda**

G–1.
RESERVED

**David P. Boergers,**
*Secretary.*
[FR Doc. 00–16167 Filed 6–22–00; 10:42 am]
**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Southwestern Power Administration

### Sam Rayburn Dam Project Power Rate

**AGENCY:** Southwestern Power Administration, DOE.

**ACTION:** Notice of proposed extension.

**SUMMARY:** The current Sam Rayburn Dam Project Rate was approved by the Federal Energy Regulatory Commission (FERC) on December 7, 1994, Docket No. EF94–4021–000. This rate was effective October 1, 1994, through September 30, 1998. On August 14, 1998, the Deputy Secretary of Energy approved a one-year extension of the Sam Rayburn Dam Rate Schedule for the period October 1, 1998 through September 30, 1999. On September 15, 1999, the Secretary of Energy approved a one-year extension of the Sam Rayburn Dam Rate Schedule for the period October 1, 1999 through September 30, 2000. Southwestern's Administrator has prepared Current and Revised Fiscal Year (FY) 2000 Power Repayment Studies for the Sam Rayburn Dam Project which show the need for a minor rate adjustment of $28,068 (1.3 percent increase) in annual revenues.

Southwestern's rate adjustment threshold, dated June 23, 1987, provides that Southwestern's Administrator may defer a revenue decrease or increase in the magnitude of two percent or less. The Deputy Secretary of Energy has the authority to extend rates, previously confirmed and approved by FERC, on an interim basis, pursuant to 10 CFR 903.22(h) and 903.23(a)(3). The Administrator is proposing that the rate adjustment be deferred and that the current rate be extended for a one-year period effective through September 30, 2001, in accordance with Department of Energy (DOE) rate extension authority and Southwestern's rate adjustment threshold.

**DATES:** Written comments are due on or before July 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 595–6696, *reeves@swpa.gov*.

**SUPPLEMENTARY INFORMATION:** The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977, and Southwestern's power marketing activities were transferred from the Department of the Interior to the Department of Energy, effective October 1, 1977.

Southestern markets power from 24 multiple-purpose reservoir projects with power facilities constructed and operated by the U.S. Army Corps of Engineers (Corps). These projects are located in the States of Arkansas, Missouri, Oklahoma and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana. Southwestern's Integrated System is comprised of 22 of these projects interconnected through Southwestern's transmission system and exchange agreements with other utilities. The other two projects (Sam Rayburn and Robert Douglas Willis) are not interconnected with Southwestern's Integrated System. Their power is marketed under contracts through which two customers purchase the entire power output of each of the projects at the dams.

Following DOE Order Number RA 6120.2, Southwestern's Administrator prepared a FY 2000 Current Power Repayment Study (PRS) using the existing Sam Rayburn Dam Project rate schedule. The Current PRS shows the cumulative amortization through FY 1999 at $12,795,065 on a total investment of $25,845,371. The FY 2000 Revised PRS indicates the need for an increase in annual revenues of $28,068, or 1.3 percent.

Southwestern generally defers, as a matter of practice, an indicated rate adjustment that falls within Southwestern's plus-or-minus two percent rate adjustment threshold. The threshold was developed to minimize Southwestern's cost while still maintaining adequate rates and is consistent with cost recovery criteria within DOE Order Number RA 6120.2 regarding rate adjustment plans. The Sam Rayburn Dam Project's FY 1999 (last year's) PRS concluded that the annual revenues needed to be increased by 0.2 percent. At that time, it was determined prudent to defer the increase in accordance with the established threshold and the current rate schedule was continued for one year. It once again seems prudent to defer this potential rate adjustment in accordance with Southwestern's rate adjustment threshold and re-evaluate the ability of the existing rate to provide sufficient revenues to satisfy costs projected in the FY 2001 (next year's) PRS.

The current rate schedule for the Sam Rayburn Dam Project was confirmed and approved by the FERC on a final basis on December 7, 1994, for a period that ended September 30, 1998. In accordance with 10 CFR 903.22(h) and 903.23(a)(3), the Deputy Secretary may extend existing rates on an interim basis beyond the period specified by the FERC.

As a result of the benefits of reduced Federal expense and rate stability obtained by a rate adjustment deferral, Southwestern's Administrator is proposing to extend the current Sam Rayburn Dam Project Rate Schedule. The schedule is to be effective for the one-year period beginning October 1, 2000, and extending through September 30, 2001.

Opportunity is presented for customers and interested parties to receive copies of the study data for the Sam Rayburn Dam Project. If you desire a copy of the Power Repayment Study data package for the Sam Rayburn Dam Project, please submit your request to: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, P.O. Box 1619, Tulsa, OK 74101, call (918) 595–6696 or e-mail *reeves@swpa.gov*.

Following review of the written comments (absent any substantive reasons to do otherwise), the Administrator will submit the rate extension proposal for the Sam Rayburn Dam Project to the Deputy Secretary of Energy for confirmation and approval.

Dated: June 14, 2000.

**Michael A. Deihl,**

*Administrator.*

[FR Doc. 00–16051 Filed 6–23–00; 8:45 am]

**BILLING CODE 6450–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6721–9]**

### Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; E. I. du Pont de Nemours & Company, Inc.

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Final Decision on Injection Well No Migration Petition.

**SUMMARY:** Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to E. I. du Pont de Nemours & Company, Inc. (Dupont), for five Class I injection wells located at Dupont's White Pigment and Mineral Products DeLisle Plant in DeLisle, Mississippi. As required by 40 CFR Part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Dupont, of the specific restricted hazardous wastes identified in the exemption, into five Class I hazardous waste injection wells (Plant Wells 2, 3, 4, 5, and 6) at the DeLisle, Mississippi facility, until December 31, 2020, unless EPA moves to terminate the exemption under provisions of 40 CFR 148.24. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued February 29, 2000. A public hearing was held March 30, 2000 at the DeLisle Elementary School. The public comment period closed on April 13, 2000. No comments were received at the public hearing and the only comment letter received prior to the close of the comment period was from Dupont. These comments were not of a significant nature and EPA has determined that its reasons for granting the exemption as set forth in the proposed decision remain valid. This

decision constitutes final Agency action and there is no Administrative appeal.

**DATES:** This action is effective as of May 5, 2000.

**ADDRESSES:** Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 4, Water Management Division, Ground Water/Drinking Water Branch, Ground Water & UIC Section, Atlanta, GA 30303–8960.

**FOR FURTHER INFORMATION CONTACT:** Andrew Bartlett, Chief Ground Water & UIC Section, EPA Region 4, telephone (404) 562–9478.

Dated: June 14, 2000.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 00–16074 Filed 6–23–00; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6725–1]**

### Meeting of the Mobile Sources Technical Review Subcommittee

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Public Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet in a regular quarterly session. This is an open meeting. The theme will be ''Modeling.'' The meeting may include presentations on the impact and significance of such sources on air quality and public health from several perspectives, *e.g.*, EPA, CARB and the regulated industry, an update on EPA's computer model and a discussion of regulatory initiatives. The preliminary agenda for this meeting and draft minutes from the previous one are available from the Subcommittee's website at: http://transaq.ce.gatech.edu/epatac

**DATES:** Wednesday, July 12, 2000 from 9 a.m. to 3:15 p.m. Registration begins at 8:30 a.m.

**ADDRESSES:** The meeting will be held at the Holiday Inn Select Hotel Old Town Alexandria, 480 King Street, Virginia, , 22314. The facility is located 3 miles from National Airport and 15 minutes from downtown Washington. The telephone number is (703) 549–6080. Space for observers is available on a first-come, first-served basis.

**FOR FURTHER INFORMATION CONTACT:** For technical information: Mr. John T. White, Alternate Designated Federal Officer, Certification and Compliance Division, U.S. EPA 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4353, FAX: 734/214–4821; email: white.johnt@epa.gov

For logistical and administrative information: Ms. Mary F. Green, FACA Management Officer, U.S. EPA 2000 Traverwood Drive, Ann Arbor, Michigan, Ph: 734/214–4411, Fax: 734/214–4053; email: green.mary@epa.gov.

For background on the Subcommittee: http://transaq.ce.gatech.edu/epatac.

Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Mr. White at the address above by *April 7*. The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

**SUPPLEMENTARY INFORMATION:** During this meeting, the Subcommittee may also hear progress reports from some of its workgroups (including review and approval of the recommendations of the On-Board Diagnostics Workgroup prior to their submission to the CAAAC) as well as updates and announcements on activities of general interest, *e.g.*, status of relevant EPA regulations, schedule for the release of MOBILE6, and an update on the reorganization of the Office of Transportation and Air Quality.

Dated: June 16, 2000.

**Margo T. Oge,**

*Director, Office of Transportation and Air Quality.*

[FR Doc. 00–16072 Filed 6–26–00; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6725–2]**

### Science Advisory Board; Emergency Notification of Rescheduled Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Clean Air Scientific Advisory Committee (CASAC) teleconference meeting scheduled for Monday, June 26, 2000 from 11 a.m. to 12 p.m. Eastern Daylight Time has been rescheduled to Wednesday, July 5, 2000. The purpose of the teleconference meeting is to review a report developed by its Technical Subcommittee on Fine Particle Monitoring. The meeting will be coordinated through a conference call connection in Room 6013 in the USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Other than the change in date, no other changes in the details of the meeting have been made. Details are contained in 65 FR 36691, June 9, 2000.

Dated: June 21, 2000.

**A. Robert Flaak,**

*Acting Staff Director, Science Advisory Board.*

[FR Doc. 00–16165 Filed 6–23–00; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[Report No. AUC–00–34–B (Auction No. 34); DA 00–1100]**

### Auction of Licenses for 800 MHz Specialized Mobile Radio (SMR) Service in the General Category Band (851–854 MHz) and Upper Band (861–865 MHz)

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the procedures and minimum opening bids for the upcoming auction of licenses for the 800 MHz Specialized Mobile Radio Service for General Category and Upper Band Frequencies (''Auction No. 34''). It also, announces that the beginning date of Auction No. 34 will be moved forward one week to August 16, 2000.

**DATES:** Auction No. 34 will begin August 16, 2000.

**FOR FURTHER INFORMATION CONTACT:** *Auctions and Industry Analysis Division:* M. Nicole Oden, Legal Branch at (202) 418–0660; Nancy Gilbert or Bob Reagle, Auctions Operations Branch at (717) 338–2888 *Commercial Wireless Division:* Bettye Woodward, Licensing and Technical Analysis Branch at (202) 418–1345 *Media Contact:* Meribeth McCarrick at (202) 418–0654.

**SUPPLEMENTARY INFORMATION:** This is a summary of a public notice released May 18, 2000. The complete text of the public notice, including attachments, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, D.C. 20554. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, D.C. 20036, (202) 857–3800. It is also available on the Commission's web site at *http://www.fcc.gov.*

List of Attachments Available at the FCC:

Attachment A—Licenses to be Auctioned
Attachment B—Auction Seminar Registration Form
Attachment C—Electronic Filing and Review of the FCC Form 175
Attachment D—Completing the FCC Form 175
Attachment E—Completing the FCC Form 159
Attachment F—Remote Bidding Software Order Form
Attachment G—Exponential Smoothing Formula and Calculation
Attachment H—Accessing the FCC Network
Attachment I—Summary of Documents Addressing the Anti-Collusion Rules

## I. General Information

### *A. Introduction*

1. This public notice announces the procedures and minimum opening bids for the upcoming auction of licenses for the 800 MHz Specialized Mobile Radio Service for General Category and Upper Band Frequencies (''Auction No. 34''). On March 23, 2000, in accordance with the Balanced Budget Act, Public Law 105–33, 111 Stat. 251 (1997) (''Balanced Budget Act'') the Wireless Telecommunications Bureau (''Bureau'') released a public notice seeking comment on the establishment of reserve prices or minimum opening bids and the procedures to be used in Auction No. 34. On April 18, 2000, the Bureau released a public notice announcing the inclusion of three additional licenses from the 800 MHz upper band, to be included in Auction No. 34. *See* Auction of Licenses for 800 MHz Specialized Mobile Radio (SMR) Service General Category Frequencies in the 851–854 MHz Band Scheduled for August 23, 2000, 65 FR 17268 (March 31, 2000) and Auction of Additional Licenses for 800 MHz Specialized Mobile Radio (SMR) Service to be included in Auction No. 34 Scheduled for August 23, 2000, 65 FR 24484 (April 26, 2000) (collectively, *Auction No. 34 Comment Public Notice*). The Bureau received five comments and three reply comments in response to the *Auction No. 34 Comment Public Notice.*

2. *The Auction No. 34 Comment Public Notice* announced that Auction No. 34 would begin on August 23, 2000. In this public notice, the Bureau announces that the beginning date of Auction No. 34 will be moved forward one week to August 16, 2000.

#### i. Background of Proceeding

3. On December 15, 1995, the Federal Communications Commission (FCC or Commission) released Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (*800 MHz First Report and Order*), 61 FR 6212 (February 16, 1996). This document established geographic area licensing, auction and service rules for the ''upper 200'' 800 MHz SMR channels and set forth proposals for new licensing rules and auction procedures for the ''lower 230'' 800 MHz SMR channels. On July 10, 1997, the Commission released a Second Report and Order in the same proceeding (*800 MHz Second Report and Order*), 62 FR 41190 (July 31, 1997), that resolved pending issues and established technical and operational rules for the ''lower 230'' 800 MHz SMR channels. On October 8, 1999, the Commission released a Memorandum Opinion and Order on Reconsideration (*800 MHz Order on Reconsideration*), 64 FR 71042 (December 20, 1999) that completed the implementation of a new licensing framework for the 800 MHz SMR service.

#### ii. Licenses To Be Auctioned

4. The licenses available in this auction consist of six contiguous 25 channel blocks (1.25 MHz) in each of 172 Economic Areas (EAs) and 3 EA-like areas, covering the United States, possessions or territories in the Northern Mariana Islands and Guam, American Samoa, the United States Virgin Islands and Puerto Rico. These licenses are listed in this public notice under Attachment A.

5. Additionally, the Commission will offer three EA licenses in the 800 MHz Upper Band (861–865 MHz): Spectrum Block A—one 20 channel license in Honolulu, HI; Spectrum Blocks B & C—one 60 channel license and one 120 channel license respectively in Guam and Northern Mariana Islands. The following table contains the Block/Frequency Band Limits Cross-Reference List for the 800 SMR General Category Channels:

800 MHz SMR General Category Channels

| License suffix | Channel No. | Frequencies (Base and mobile) |
|---|---|---|
| **851–854 MHz** | | |
| D | 1 through 25 | 851.0125 through 851.6125.<br>806.0125 through 806.6125. |
| DD | 26 through 50 | 851.6375 through 852.2375.<br>806.6375 through 807.2375. |
| E | 51 through 75 | 852.2625 through 852.8625.<br>807.2625 through 807.8625. |
| EE | 76 through 100 | 852.8875 through 853.4875.<br>807.8875 through 808.4875. |
| F | 101 through 125 | 853.5125 through 854.1125.<br>808.5125 through 809.1125. |
| FF | 126 through 150 | 854.1375 through 854.7375.<br>809.1375 through 809.7375. |
| **861–866 MHz (Upper Bands)** | | |
| Spectrum Block: | | |
| A | 401—420 | 861.0—861.5 MHz.<br>816.0—816.5 MHz. |
| B | 421—480 | 861.5—863.0 MHz.<br>816.5—818.0 MHz. |
| C | 481—600 | 863.0—866.0 MHz.<br>818.0—821.0 MHz. |

*B. Scheduling*

i. Bifurcation

6. Some commenters responding to the *Auction No. 34 Comment Public Notice* argued that there should be no overlap between Auctions No. 34 and 36. The Bureau agrees that it may be burdensome for some bidders to participate in coinciding auctions. However, there was no consensus among commenters on how to resolve this potential problem. For reasons of administrative convenience, the Bureau chooses to maintain the bifurcated schedule for Auctions No. 34 and 36.

7. In addition, for reasons of administrative convenience and effective auction management, we will change the date for Auction No. 34, moving the date forward one week to August 16, 2000. This change will not only provide for more efficient management of the auction, it will provide additional time between Auctions No. 34 and 36 to permit all interested parties, including incumbents and small businesses, sufficient time in which to evaluate the outcome of Auction No. 34 and prepare for Auction No. 36.

ii. Pacific Wireless' Petition for Reconsideration

8. Pacific Wireless seeks reconsideration of the Bureau's scheduling of Auctions No. 34 and 36 prior to the conclusion of the mandatory negotiation period for the relocation of incumbent licensees from the upper 200 channels, scheduled to conclude on December 4, 2000. SBT and PCIA also support postponement of the auctions, however, they advocate delay until the completion of the involuntary relocation phase that is scheduled to commence on December 4, 2000. Pacific Wireless contends that holding the auctions prior to December 4, 2000, contravenes the Commission's prior decisions and is contrary to the interests of incumbents. We disagree with this contention and deny Pacific Wireless's Petition for Reconsideration. The *800 MHz Second Report and Order* state that the licensing of the lower channels would not occur until ''incumbents have had the *opportunity* to relocate to the lower channels.'' As Nextel and Southern correctly note, prior to Auction No. 34, incumbents on the upper 200 channels will have had approximately 18 months to relocate their systems. Although we recognize that upper channel incumbents are currently in the second phase of the three-phase process the Commission established, we believe that 18 months provides a reasonable opportunity for incumbents to relocate.

9. We agree with those commenters who stated that going forward with Auctions No. 34 and 36 will facilitate the relocation process by providing EA licensees with additional relocation spectrum and incumbents with a more certain picture of their relocation options. Accordingly, we will not delay the start of Auction No. 34 until the close of the mandatory negotiation period for relocation of incumbent licensees on the upper 200 channels.

*C. Rules and Disclaimers*

i. Relevant Authority

10. Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to the 800 MHz band, contained in title 47, part 90 of the *Code of Federal Regulations,* and those relating to application and auction procedures, contained in title 47, part 1 of the *Code of Federal Regulations.*

11. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, ''Terms'') contained in this public notice; the *Auction No. 34 Comment Public Notice, 800 MHz First Report and Order, 800 MHz Second Report and Order,* and the *800 MHz Order on Reconsideration.*

12. The terms contained in the Commission's rules, relevant orders and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Internet node via anonymous ftp @ftp.fcc.gov or the FCC Auctions World Wide Web site at *http://www.fcc.gov/wtb/auctions.* Additionally, documents may be obtained for a fee by calling the Commission's copy contractor, International Transcription Service, Inc. (ITS), at (202) 314–3070. When ordering documents from ITS, please provide the appropriate FCC number (for example, FCC 99–270 for the *800 MHz Order on Reconsideration*).

ii. Prohibition of Collusion

13. To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements. This prohibition begins with the filing of short-form applications and ends on the down payment due date. Bidders competing for licenses in the same geographic license areas are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the authorized bidders is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (*e.g.,* law firm or consulting firm), a violation could similarly occur. In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.

14. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted. Applicants that apply to bid for ''all markets'' would be precluded from communicating with all other applicants after filing the FCC Form 175 short-form application. However, applicants may enter into bidding agreements *before* filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their Form 175. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application under § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other applicants for the same geographic license areas. By signing their FCC Form 175 short form applications, applicants are certifying their compliance with § 1.2105(c). In addition, § 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires an auction applicant to notify the

Commission of any violation of the anti-collusion rules immediately upon learning of such violation. A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment I.

iii. Due Diligence

15. Potential bidders should be aware that certain applications (including those for modification), waiver requests, petitions to deny, petitions for reconsideration, and applications for review are pending before the Commission that relate to particular applicants or incumbent licensees. In addition, certain decisions reached in the SMR proceeding are subject to judicial appeal and may be the subject of additional reconsideration or appeal. We note that resolution of these matters could have an impact on the availability of spectrum for EA licensees in the 800 MHz SMR general category and upper bands. While the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction. Potential bidders are solely responsible for investigating and evaluating the degree to, which such pending matters may affect spectrum availability in areas where they seek EA licenses. Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 34, and encouraged to continue such research during the auction, in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction.

16. To aid potential bidders, the Commission will release a subsequent public notice listing pending matters that relate to licenses or applications that affect the 800 MHz SMR general category and upper bands. The Commission will make available for public inspection the pleadings and related filings in those matters pending before the Commission.

17. In addition, potential bidders may research the Bureau's licensing databases on the World Wide Web in order to determine which frequencies are already licensed to incumbent licensees. Because some of our incumbent 800 MHz licensing records have not yet been converted to the Bureau's new Universal Licensing System (ULS), potential bidders may have to select other databases to perform research for the frequency(s) of interest. The research options will allow potential bidders to download licensing data, as well as to perform queries online.

18. 800 MHz band Incumbent Licenses: Licensing records for the 800 MHz band are contained in the Bureau's Land Mobile database and may be researched on the internet at *http://www.fcc.gov/wtb* by selecting the ''Databases'' link at the top of the page. Potential bidders may download a copy of the licensing database by selecting ''Download the Wireless Databases'' and choosing the appropriate files under ''Land Mobile Database Files—47 CFR part 90.'' Alternatively, potential bidders may query the Bureau's licensing records online by selecting ''Search the Wireless Databases Online.''

19. 800 MHz SMR Upper 200 channels (Auction No. 16) Licenses: Licensing records for the 800 SMR Upper 200 channels are contained in the Bureau's ULS and may be researched on the Internet at *http://www.fcc.gov/wtb/uls* by selecting the ''License Search'' button in the left frame. Potential bidders may query the database online and download a copy of their search results if desired. The Bureau recommends that potential bidders select the ''Frequency'' option under License Search, specify the desired frequency, and use the ''GeoSearch'' button at the bottom of the screen to limit their searches to a particular geographic area. Detailed instructions on using License Search (including frequency searches and the GeoSearch capability) and downloading query results are available online by selecting the ''?'' button at the bottom right-hand corner of the License Search screen.

20. The Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in or near the geographic area for which they plan to bid.

21. Potential bidders should direct questions regarding the search capabilities described to the FCC Technical Support Hotline at (202) 414–1250 (voice) or (202) 414–1255 (TTY), or via email at *ulscomm@fcc.gov.* The hotline is available Monday through Friday, from 8:00 AM to 6:00 PM Eastern Time. In order to provide better service to the public, *all calls to the hotline are recorded.*

iv. Incumbent Licensees

22. Potential bidders are reminded that there are incumbent licensees operating on frequencies that are subject to the upcoming auction. Incumbent licensees retain the exclusive right to use those channels within their self-defined service areas. The holder of an EA authorization thus will be required to implement its facilities to protect incumbents from harmful interference. These limitations may restrict the ability of such geographic area licenses to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. Specifically, an EA authorization holder will be required to coordinate with the incumbent licensees by using the interference protection criteria in § 90.693 of the Commission's rules. However, operational agreements are encouraged between the parties. Should an incumbent lose its license, the incumbent's service area(s) will convey to the relevant authorized holder of the EA, and the authorized EA licensee will be entitled to operate within the forfeited service area(s) without being subject to further competitive bidding.

v. Bidder Alerts

23. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

24. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that a FCC auction represents an opportunity to become a FCC licensee in this service, subject to certain conditions and regulations. A FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products; nor does a FCC license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding, as they would with any new business venture.

25. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 34 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following: (a) The first contact is a ''cold call'' from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial; (b) The offering materials used to invest in the venture

appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts; (c) The amount of the minimum investment is less than $25,000; (d) The sales representative makes verbal representations that: (i) The Internal Revenue Service (''IRS''), Federal Trade Commission (''FTC''), Securities and Exchange Commission (''SEC''), FCC, or other government agency has approved the investment; (ii) the investment is not subject to state or federal securities laws; or (iii) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific 800 MHz proposals may also call the FCC Consumer Center at (888) CALL–FCC ((888) 225–5322).

vi. National Environmental Policy Act (NEPA) Requirements

26. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of an 800 MHz facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility. The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The licensee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

*D. Auction Specifics*

i. Auction Date

27. The auction will begin on Wednesday, August 16, 2000. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

ii. Auction Title

28. Auction No. 34—800 MHz SMR General Category Channels

iii. Bidding Methodology

29. The bidding methodology for Auction No. 34 will be simultaneous multiple round bidding. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

iv. Pre-Auction Dates and Deadlines

30. These are important dates relating to Auction No. 34:

Auction Seminar—July 7, 2000

Short-Form Application (FCC FORM 175)—July 17, 2000; 6 p.m. ET

Upfront Payments (via wire transfer)—July 31, 2000; 6 p.m. ET

Orders for Remote Bidding Software—August 1, 2000; 5:30 p.m. ET

Mock Auction—August 14, 2000

Auction Begins—August 16, 2000

v. Requirements for Participation

31. Those wishing to participate in the auction must:

- Submit a short form application (FCC Form 175) electronically by 6 p.m. ET, July 17, 2000.
- Submit a sufficient upfront payment and a FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, July 31, 2000.
- Comply with all provisions outlined in this public notice.

vi. General Contact Information

32. The following is a list of general contact information relating to Auction No. 34:

| | |
|---|---|
| General Auction Information: General Auction Questions, Seminar Registration, Orders for Remote Bidding Software. | FCC Auctions Hotline, (888) 225–5322, Press Option #2 or direct (717) 338–2888, Hours of service: 8 a.m.–5:30 p.m. ET. |
| Auction Legal Information: Auction Rules, Policies, Regulations | Auctions and Industry Analysis Division, Legal Branch (202) 418–0660. |
| Licensing Information: Rules, Policies, Regulations, Licensing Issues, Due Diligence, Incumbency Issues. | Commercial Wireless Division, (202) 418–0620. |
| Technical Support: Electronic Filing Assistance, Software Downloading. | FCC Auctions Technical Support Hotline, (202) 414–1250 (Voice), (202) 414–1255 (TTY), Hours of service: 8 a.m.–6 p.m. ET. |
| Payment Information: Wire Transfers, Refunds | FCC Auctions Accounting Branch, (202) 418–1995, (202) 418–2843 (Fax). |
| Telephonic Bidding | Will be furnished only to qualified bidders. |
| FCC Copy Contractor: Additional Copies of Commission Documents | International Transcription Services, Inc., 445 12th Street, SW Room CY–B400, Washington, DC 20554, (202) 314–3070. |
| Press Information | Meribeth McCarrick, (202) 418–0654. |
| FCC Forms | (800) 418–3676 (outside Washington, DC), (202) 418–3676 (in the Washington Area), *http://www.fcc.gov/formpage.* |
| FCC Internet Sites | *http://www.fcc.gov/wtb/auctions*<br>*http://www.fcc.gov*<br>*ftp://ftp.fcc.gov* |

## II. Short-Form (FCC Form 175) Application Requirements

33. Guidelines for completion of the short-form (FCC Form 175) are set forth on Attachment D. The short-form application seeks the applicant's name and address, legal classification, status, bidding credit eligibility, identification of the authorization(s) sought, the authorized bidders and contact persons.

*A. Ownership Disclosure Requirements (Form 175 Exhibit A)*

34. All applicants must comply with the uniform part 1 ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in

completing Form 175, applicants will be required to file an ''Exhibit A'' providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission's rules.

*B. Consortia and Joint Bidding Arrangements (Form 175 Exhibit B)*

35. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. *See* 47 CFR 1.2105(a)(2)(viii) and 1.2105(c)(1). Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular construction permits on which they will or will not bid. *See* 47 CFR 1.2105(a)(2)(ix). Where applicants have entered into consortia or joint bidding arrangements, applicants must submit an ''Exhibit B'' to the FCC Form 175.

36. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest, form a consortium with, or enter into a joint bidding arrangement with other applicants for construction permits in the same geographic license area provided that (i) the attributable interest holder certify that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, bidders are reminded that certain discussions or exchanges could broach on impermissible subject matters because they may convey pricing information and bidding strategies.

*C. Small Business Bidding Credits (Form 175 Exhibit C)*

i. Eligibility

37. Bidding credits are available to small businesses and very small businesses as defined in 47 CFR 90.912(b). For purposes of determining which entities qualify as very small businesses or small businesses, the Commission will consider the gross revenues of the applicant, its controlling interests, and the affiliates of the applicant and its controlling interests. The Commission does not impose specific equity requirements on controlling interests. Once principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the applicant and their affiliates will be counted in determining small business eligibility. The term ''control'' includes both *de facto* and *de jure* control of the applicant. Typically, *ownership of at least 50.1 percent of an entity's voting stock evidences de jure control. De facto* control is determined on a case-by-case basis. The following are some common indicia of control:

- The entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- The entity plays an integral role in management decisions.

38. A consortium of small businesses, or very small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which *individually* satisfies the definition of small or very small business in § 90.912. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, controlling interests, and controlling interests' affiliates. We note that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for small or very small business credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

ii. Application Showing

39. Applicants should note that they will be required to file supporting documentation as Exhibit C to their FCC Form 175 short form applications to establish that they satisfy the eligibility requirements to qualify as a small business or very small business (or consortia of small or very small businesses) for this auction. Specifically, for Auction No. 34, applicants applying to bid as small or very small businesses (or consortia of small or very small businesses) will be required to disclose on Exhibit C to their FCC Form 175 short-form applications, *separately and in the aggregate,* the gross revenues for the preceding three years of each of the following: (i) the applicant; (ii) the applicant's affiliates; (iii) the applicant's controlling interests; and (iv) the affiliates of the applicant's controlling interests. Certification that the average gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. If the applicant is applying as a consortium of very small or small businesses, this information must be provided for each consortium member.

iii. Bidding Credits

40. Applicants that qualify under the definitions of small business, and very small business (or consortia of small or very small businesses) as set forth in 47 CFR 90.912, are eligible for a bidding credit that represents the amount by which a bidder's winning bids are discounted. The size of an 800 MHz band bidding credit depends on the average gross revenues for the preceding three years of the bidder and its controlling interests and affiliates:

- A bidder with average gross revenues of not more than $15 million for the preceding three years receives a 25 percent discount on its winning bids for 800 MHz band licenses (''small business'');
- A bidder with average gross revenues of not more than $3 million for the preceding three years receives a 35 percent discount on its winning bids for 800 MHz band licenses (''very small business'').

41. Bidding credits are not cumulative: qualifying applicants receive either the 25 percent or the 35 percent bidding credit, but not both.

42. Bidders in Auction No. 34 should note that unjust enrichment provisions apply to winning bidders that use bidding credits and subsequently assign or transfer control of their licenses to an entity not qualifying for the same level of bidding credit. *See* 47 CFR 90.910(b). Finally, bidders should also note that there are no installment payment plans in Auction No. 34.

*D. Other Information (Form 175 Exhibits D and E)*

43. Applicants owned by minorities or women, as defined in 47 CFR 1.2110(b)(2), may attach an exhibit (Exhibit D) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of ''designated entities'' in its auctions. Applicants wishing to submit additional information may do

so in Exhibit E (Miscellaneous Information) to the FCC Form 175.

*E. Minor Modifications to Short-Form Applications (FCC Form 175)*

44. After the short-form filing deadline (July 17, 2000), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.,* change their license selections or proposed service areas, change the certifying official or change control of the applicant or change bidding credits). *See* 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these changes on-line, and submit a letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Suite 4–A760 Washington, DC 20554, briefly summarizing the changes. Questions about other changes should be directed to M. Nicole Oden of the Auctions and Industry Analysis Division at (202) 418–0660.

*F. Maintaining Current Information in Short-Form Applications (FCC Form 175)*

45. Applicants have an obligation under 47 CFR 1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

**III. Pre-Auction Procedures**

*A. Auction Seminar*

46. On Friday, July 7, 2000, the FCC will sponsor a free seminar for Auction No. 34 at the Federal Communications Commission, located at 445 12th Street, SW, Washington, D.C. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the 800 MHz band service and auction rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

47. To register, complete the registration form (Attachment B) and submit it by Thursday, July 6, 2000. Registrations are accepted on a first-come, first-served basis.

*B. Short-Form Application (FCC Form 175)—Due July 17, 2000*

48. In order to be eligible to bid in this auction, applicants must first submit a FCC Form 175 application. This application must be submitted electronically and received at the Commission by 6:00 p.m. ET on July 17, 2000. Late applications will not be accepted.

49. There is no application fee required when filing a FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See* Part III.D.

i. Electronic Filing

50. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at noon on July 7, 2000 until 6:00 p.m. ET on July 17, 2000. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on July 17, 2000.

51. Applicants must press the ''Submit Form 175'' button on the ''Submit'' page of the electronic form to successfully submit their FCC Forms 175. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 can be found in Attachment C. Technical support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); the hours of service are 8 a.m. to 6 p.m. ET, Monday through Friday.

ii. Completion of the FCC Form 175

52. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D. Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form. Attachments C and D provide information on the required attachments and appropriate formats.

iii. Electronic Review of FCC Form 175

53. The FCC Form 175 electronic review software may be used to review and print applicants' FCC Form 175 information. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. For this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any Exhibits to their FCC Form 175 applications. There is no fee for accessing this system. *See* Attachment C for details on accessing the review system.

*C. Application Processing and Minor Corrections*

54. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (i) Those applications accepted for filing (including FCC account numbers and the licenses for which they applied); (ii) those applications rejected; and (iii) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

55. As described more fully in the Commission's rules, after the July 17, 2000, short form-filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.,* change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).

*D. Upfront Payments—Due July 31, 2000*

56. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by a FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank, by 6 p.m. ET on July 31, 2000.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 34 go to a lockbox number different from the ones used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the July 31, 2000 deadline will result in dismissal of the application and disqualification from participation in the auction.

i. Making Auction Payments by Wire Transfer

57. Wire transfer payments must be received by 6 p.m. ET on July 31, 2000. To avoid untimely payments, applicants should discuss arrangements (including bank-closing schedules) with their

banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC 910–1182
OBI Field: (Skip one space between each information item)
''AUCTIONPAY''
TAXPAYER IDENTIFICATION NO.: (same as FCC Form 159, block 26)
PAYMENT TYPE CODE (enter ''A34U'')
FCC CODE 1 (same as FCC Form 159, block 23A: ''34'')
PAYER NAME (same as FCC Form 159, block 2)
LOCKBOX NO. # 358415

**Note:** The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

58. Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 209–6045 or (412) 236–5702 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write ''Wire Transfer—Auction Payment for Auction Event No. 34.'' Bidders should confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.

ii. FCC Form 159

59. A completed FCC Remittance Advice Form (FCC Form 159) must be faxed to Mellon Bank in order to accompany each upfront payment. Proper completion of FCC Form 159 is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment E. An electronic version of the FCC Form 159 is available after filing the FCC Form 175. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

iii. Amount of Upfront Payment

60. In the Amendment of Part 1 of the Commission's Rules, Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making, (*Part 1 Order, MO&O and NPRM*) 62 FR 13540 (March 21, 1997), the Commission delegated to the Bureau the authority and discretion to determine an appropriate upfront payment for each license being auctioned. In the *Auction No. 34 Comment Public Notice*, the Bureau proposed upfront payments for Auction No. 34. Specifically, the Bureau proposed calculating the upfront payment on a license-by-license basis, using the following formula:

License population *$0.005 (the result rounded to the nearest hundred for levels below $10,000.00 and to the nearest thousand for levels above $10,000.00) with a minimum of no less than $2,500.00 per license.

In this public notice, we adopt this formula.

61. Please note that upfront payments are not attributed to specific licenses, but instead will be translated to bidding units to define a bidder's maximum bidding eligibility. For Auction No. 34, the amount of the upfront payment will be translated into bidding units on a one-to-one basis; *e.g.*, a $25,000 upfront payment provides the bidder with 25,000 bidding units. The total upfront payment defines the maximum amount of bidding units on which the applicant will be permitted to bid (including standing high bids) in any single round of bidding. Thus, an applicant does not have to make an upfront payment to cover all licenses for which the applicant has selected on FCC Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

62. In order to be able to place a bid on a license, in addition to having specified that license on the FCC Form 175, a bidder must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on the FCC Form 175, or else the applicant will not be eligible to participate in the auction.

63. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units it may wish to bid on in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. Bidders should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

**Note:** An applicant may, on its FCC Form 175, apply for every license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

iv. Applicant's Wire Transfer Information for Purposes of Refunds

64. The Commission will use wire transfers for all Auction No. 34 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information listed be supplied to the FCC. Applicants can provide the information electronically during the initial short form-filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Michelle Bennett or Gail Glasser, at (202) 418–2843 by July 31, 2000. Should the payer fail to submit the requested information, the refund will be returned to the original payer. For additional information, please call (202) 418–1995.

Name of Bank
ABA Number
Contact and Phone Number
Account Number to Credit
Name of Account Holder
Correspondent Bank (if applicable)
ABA Number
Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in Part V.D.

*E. Auction Registration*

65. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

66. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing part of the confidential identification codes required to place bids. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

67. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Friday, August 11, 2000 should contact the Auctions Hotline at (717) 338–2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

68. Qualified bidders should note that lost login codes passwords or bidder

identification numbers can be replaced only by appearing *in person* at the FCC Auction Headquarters located at 445 12th St., SW, Washington, D.C. 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes. Qualified bidders requiring replacement codes must call technical support prior to arriving at the FCC to arrange preparation of new codes.

*F. Remote Electronic Bidding Software*

69. Qualified bidders are allowed to bid electronically or telephonically. If choosing to bid electronically, each bidder must purchase their own copy of the remote electronic bidding software. Electronic bids will only be accepted from those applicants purchasing the software. However, the software may be copied by the applicant for use by its authorized bidders at different locations. The price of the FCC's remote bidding software is $175.00 and must be ordered by Tuesday, August 1, 2000. For security purposes, the software is only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 34. If bidding telephonically, the telephonic bidding phone number will be supplied in the first Federal Express mailing of confidential login codes. Qualified bidders that do not purchase the software may only bid telephonically. To indicate your bidding preference, a FCC Bidding Preference/Remote Software Order Form can be accessed when submitting the FCC Form 175. Bidders should complete this form electronically, print it out, and fax to (717) 338–2850. A manual copy of this form is also included as Attachment F in the public notice.

*G. Mock Auction*

70. All qualified bidders will be eligible to participate in a mock auction on Monday, August 14, 2000. The mock auction will enable applicants to become familiar with the electronic software prior to the auction. Free demonstration software will be available for use in the mock auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

**IV. Auction Event**

71. The first round of bidding for Auction No. 34 will begin on Wednesday, August 16, 2000. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

*A. Auction Structure*

i. Simultaneous Multiple Round Auction

72. In the *Auction No. 34 Comment Public Notice*, we proposed to award the 1,053 licenses in the 800 MHz band in a single, simultaneous multiple round auction. We received no comment on this issue. We conclude that it is operationally feasible and appropriate to auction the 800 MHz band licenses through a single, simultaneous multiple round auction.

ii. Maximum Eligibility and Activity Rules

73. In the *Auction No. 34 Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the initial maximum eligibility (as measured in bidding units) for each bidder. We received no comments on this issue.

74. For Auction No. 34 we will adopt this proposal. The amount of the upfront payment submitted by a bidder determines the initial maximum eligibility (in bidding units) for each bidder. The total upfront payment does not define the total dollars a bidder may bid on any given license.

75. In order to ensure that the auction closes within a reasonable period of time, we adopt an activity rule that requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a specific percentage of their maximum eligibility during each round of the auction.

76. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current round (*see* ''Minimum Accepted Bids'' in Part IV.B.(iii)). The minimum required activity level is expressed as a percentage of the bidder's maximum bidding eligibility, and increases by stage as the auction progresses.

iii. Activity Rule Waivers and Reducing Eligibility

77. Each bidder will be provided five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. We are satisfied that our practice of providing five waivers over the course of the auction provides a sufficient number of waivers and maximum flexibility to the bidders, while safeguarding the integrity of the auction.

78. The FCC automated auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any round where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

79. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in ''Auction Stages'' (*see* Part IV.A.iv discussion). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

80. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

iv. Auction Stages

81. We conclude that the Auction No. 34 will be composed of three stages, which are each defined by an increasing activity rule. The following paragraphs

describe the activity levels for each stage of the auction. The FCC reserves the discretion to further alter the activity percentages before and/or during the auction.

82. *Stage One:* During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses that represent at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by five-fourths (5/4).

83. *Stage Two:* During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 90 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by ten-ninths (10/9).

84. *Stage Three:* During the third stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). In this stage, reduced eligibility for the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by fifty-fortyninths (50/49).

**Caution:** Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required minimum activity level by using the bidding software's bidding module.

v. Stage Transitions

85. Auction No. 34 will start in Stage One and will advance to the next stage (i.e., from Stage One to Stage Two, and from Stage Two to Stage Three) when, in each of three consecutive rounds of bidding, the high bid has increased on 10 percent or less of the licenses being auctioned (as measured in bidding units). However, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.

vi. Auction Stopping Rules

86. Auction No. 34 will employ a simultaneous stopping rule. Under this rule, bidding will remain open on all licenses until bidding stops on every license. The auction will close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid. After the first such round, bidding closes simultaneously on all licenses.

87. The Bureau retains the discretion to invoke the other versions of the simultaneous stopping rule. This modified version will close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder will not keep the auction open under this modified stopping rule.

88. The Bureau also retains the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if it has any left).

89. In addition, the Bureau reserves the right to declare that the auction will end after a specified number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage where bidders will be required to maintain a higher level of bidding activity, increasing the number of bidding rounds per day.

vii. Auction Delay, Suspension, or Cancellation

90. For Auction No. 34, by public notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases the Bureau may elect to: Resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

*B. Bidding Procedures*

i. Round Structure

91. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. This public notice will be included in the registration mailings. The round structure for each bidding round contains a single bidding round followed by the release of the round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will be included in a *Qualified Bidder Public Notice.*

92. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The FCC may increase or decrease the amount of time

for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

93. The Bureau adopts minimum opening bids for Auction 34, which are reducible at the discretion of the Bureau. Congress has enacted a presumption that unless the Commission determines otherwise, minimum opening bids or reserve prices are in the public interest.

94. We adopt the following proposed formula to calculate minimum opening bids for each license:

License population * $0.005 (the result rounded to the nearest hundred for results less than $10,000 and rounded to the nearest thousand for results greater than $10,000) with a minimum of no less than $2,500.00 per license.

95. The Bureau concludes that this adopted formula best meets the objectives of our authority in establishing reasonable minimum opening bids. The Bureau has noted in the past that the reserve price and minimum opening bid provision is not a requirement to maximize auction revenue but rather a protection against assigning licenses at unacceptably low prices and that we must balance the revenue raising objective against our other public interest objectives in setting the minimum bid level. *See* Auction of 800 MHz SMR Upper 10 MHz Band, Minimum Opening Bids or Reserve Prices, 62 FR 55251 (October 23, 1997). For the sake of auction integrity and fairness, minimum opening bids must be set in a manner that is consistent across licenses.

96. As a final safeguard against unduly high pricing, minimum opening bids are reducible at the discretion of the Bureau. This will allow the Bureau flexibility to adjust the minimum opening bids if circumstances warrant. The Bureau emphasizes, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.,* before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any bidder requests to reduce the minimum-opening bid on specific licenses.

iii. Bid Increments and Minimum Accepted Bids

97. For Auction No. 34 the Bureau adopts a smoothing methodology to calculate minimum bid increments. The smoothing methodology is designed to vary the increment for a given license between a maximum and minimum value based on the bidding activity on that license. This methodology allows the increments to be tailored to the activity level of a license, decreasing the time it takes for active licenses to reach their final value. The formula used to calculate this increment is included as Attachment G.

98. The Bureau adopts the initial values for the maximum of 0.2 or 20 percent of the license value and a minimum of 0.1 or 10 percent of the license value. The Bureau retains the discretion to change the minimum bid increment if it determines that circumstance so dictate. The Bureau will do so by announcement in the Automated Auction System. Under its discretion, the Bureau may also implement an absolute dollar floor for the bid increment to further facilitate a timely close of the auction. The Bureau may also use its discretion to adjust the minimum bid increment without prior notice if circumstances warrant. As an alternative approach, the Bureau may, in its discretion, adjust the minimum bid increment gradually over a number of rounds as opposed to single large changes in the minimum bid increment (*e.g.,* by raising the increment floor by one percent every round over the course of ten rounds). The Bureau also retains the discretion to use alternate methodologies, such as a flat percentage increment for all licenses, for Auction No. 34 if circumstances warrant.

iv. High Bids

99. Each bid will be date-and time-stamped when it is entered into the FCC computer system. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which the Commission receives bids. The bidding software allows bidders to make multiple submissions in a round. As each bid is individually date-and time-stamped according to when it was submitted, bids submitted by a bidder earlier in a round will have an earlier date and time stamp than bids submitted later in a round.

v. Bidding

100. During a bidding round, a bidder may submit bids for as many licenses as it wishes, subject to its eligibility, as well as withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round and the date-and time-stamp of that bid reflects the latest time the bid was submitted.

101. Please note that all bidding will take place remotely either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid, by placing their calls well in advance of the close of a round. Normally four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 34.

102. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (i) The licenses applied for on FCC Form 175; and (ii) the upfront payment amount deposited. The bid submission screens will be tailored for each bidder to include only those licenses for which the bidder applied on its FCC Form 175. A bidder also has the option to further tailor its bid submission screens to call up specified groups of licenses.

103. The bidding software requires each bidder to login to the FCC auction system during the bidding round using the FCC account number, bidder identification number, and the confidential security codes provided in the registration materials. Bidders are strongly encouraged to download and print bid confirmations *after* they submit their bids.

104. The bid entry screen of the Automated Auction System software for Auction No. 36 allows bidders to place multiple increment bids. Specifically, high bids may be increased from one to nine bid increments. A single bid increment is defined as the difference between the standing high bid and the minimum acceptable bid for a license. The bidding software will display the bid increment for each license.

105. To place a bid on a license, the bidder must increase the standing high bid by one to nine times the bid increment. This is done by entering a whole number between 1 and 9 in the bid increment multiplier (Bid Mult) field in the software. This value will determine the amount of the bid (Amount Bid) by multiplying the bid increment multiplier by the bid increment and adding the result to the high bid amount according to the following formula:

Amount Bid = High Bid + (Bid Mult * Bid Increment)

Thus, bidders may place a bid that exceeds the standing high bid by between one and nine times the bid increment. For example, to bid the

minimum acceptable bid, which is equal to one bid increment, a bidder will enter ''1'' in the bid increment multiplier column and press submit.

106. For any license on which the FCC is designated as the high bidder (*i.e.,* a license that has not yet received a bid in the auction or where the high bid was withdrawn and a new bid has not yet been placed), bidders will be limited to bidding only the minimum acceptable bid. In both of these cases no increment exists for the licenses, and bidders should enter ''1'' in the Bid Mult field. Note that in this case, any whole number between 1 and 9 entered in the multiplier column will result in a bid value at the minimum acceptable bid amount. Finally, bidders are cautioned in entering numbers in the Bid Mult field because, as explained in the following section, a high bidder that withdraws its standing high bid from a previous round, even if mistakenly or erroneously made, is subject to bid withdrawal payments.

vi. Bid Removal and Bid Withdrawal

107. In Auction No. 34, the Bureau will limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals during the auction will still be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market. If a high bid is withdrawn, the license will be offered in the next round at the second highest bid price, which may be less than, or equal to, in the case of tie bids, the amount of the withdrawn bid, without any bid increment. The Commission will serve as a ''place holder'' on the license until a new acceptable bid is submitted on that license.

108. Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the ''remove bid'' function in the software, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed *i.e.* a bid that is subsequently removed, does not count toward the bidder's activity requirement.

109. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the ''withdraw bid'' function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). The procedure for withdrawing a bid and receiving a withdrawal confirmation is essentially the same as the bidding procedure described in ''High Bids,'' Part IV.B.iv.

110. Calculation. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. Specifically, a bidder (''Bidder X'') that withdraws a high bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount withdrawn and the amount of the subsequent winning bid. If a high bid is withdrawn on a license that remains unsold at the close of the auction, Bidder X will be required to make an interim payment equal to three (3) percent of the net amount of the withdrawn bid. This payment amount is deducted from any upfront payments or down payments that Bidder X has deposited with the Commission. If, in a subsequent auction, that license receives a valid bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and Bidder X may request a refund of the interim three (3) percent payment. If, in a subsequent auction, the winning bid amount for that license is less than Bidder X's withdrawn bid amount, then Bidder X will be required to make a final bid withdrawal payment, less the three percent interim payment, equal to either the difference between Bidder X's net withdrawn bid and the subsequent net winning bid, or the difference between Bidder X's gross withdrawn bid and the subsequent gross winning bid, whichever is less.

vii. Round Results

111. Bids placed during a round will not be published until the conclusion of that bidding period. After a round closes, the Commission will compile reports of all bids placed, bids withdrawn, current high bids, new minimum accepted bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 34 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

112. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available on the FCC remote electronic bidding system, as well as the Internet.

ix. Maintaining the Accuracy of FCC Form 175 Information

113. As noted in Part II.E., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Filers must make these changes on-line, and submit a letter summarizing the changes to: Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. A separate copy of the letter should be mailed to M. Nicole Oden, Auctions and Industry Analysis Division, 4–A337, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. Questions about other changes should be directed to M. Nicole Oden, Auctions and Industry Analysis Division at (202) 418–0660.

## V. Post-Auction Procedures

### *A. Down Payments and Withdrawn Bid Payments*

114. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bids and bidders for each license, and listing withdrawn bid payments due.

115. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its net winning bids (actual bids less any applicable bidding credits). *See* 47 CFR 1.2107(b). In addition, by the same deadline all bidders must pay any withdrawn bid amounts due according to 47 CFR 1.2104(g), as discussed in ''Bid Removal and Bid Withdrawal,'' Part IV.B.vi. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

*B. Long-Form Application*

116. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application and required exhibits for each 800 MHz license won through the auction. Winning bidders that are small businesses or very small businesses must include an exhibit demonstrating their eligibility for bidding credits. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

*C. Default and Disqualification*

117. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at their final bid. *See* 47 CFR 1.2109(b) and (c). In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant. *See* 47 CFR 1.2109(d).

*D. Refund of Remaining Upfront Payment Balance*

118. All applicants that submitted upfront payments but were not winning bidders for a 800 MHz license may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid.

119. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions and a Taxpayer Identification Number (''TIN''). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Shirley Hanberry, 445 12th Street, SW, Room 1–A824, Washington, DC 20554.

120. Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418–2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

**Note:** Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Michelle Bennett or Gail Glasser at (202) 418–1995.

Federal Communications Commission

**Louis J. Sigalos,**

*Deputy Chief, Auctions & Industry Analysis Division.*

[FR Doc. 00–16117 Filed 6–23–00; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[DA–00–1184]**

### Telecommunications Services Between the United States and Cuba

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** On May 25, 2000, the Commission approved the application of Sprint Communications Company, L.P. (Sprint) to acquire and operate additional satellite facilities for provision of service between the United States and Cuba. This application includes upgrade of an existing private line circuit between an authorized international earth station in New Jersey and INTELSAT's Atlantic Ocean Region satellite. Sprint is currently authorized by the Commission to provide service directly to Cuba.

The Commission has authorized Sprint to provide service between the United States and Cuba in accordance with the provisions of the Cuban Democracy Act. This will help meet the demand for direct telecommunications services between the United States and Cuba. Under the guidelines established by the Department of State, Sprint is to submit reports indicating the numbers of circuits activated by facility, on or before June 30, and December 31 of each year, and on the one year anniversary of this notification in the **Federal Register**. The authorization is, however, subject to revocation if the Department of State or the Federal Communications Commission determines that Sprint's continued provision of communications services to Cuba no longer serves the national interest.

**FOR FURTHER INFORMATION, CONTACT:** J. Breck Blalock, Chief, Policy and Facilities Branch, (202) 418–1460 or Justin Connor, Attorney Advisor, Policy and Facilities Branch, (202) 418–1476.

Dated: June 20, 2000.

Federal Communications Commission.

**Rebecca Arbogast,**

*Chief, Telecommunications Division, International Bureau.*

[FR Doc. 00–16118 Filed 6–23–00; 8:45 am]

**BILLING CODE 6712–01–U**

## FEDERAL COMMUNICATIONS COMMISSION

**[Report No. AUC–00–80–B (Auction No. 80); DA 00–1226]**

### Auction Notice and Filing Requirements for a New Television Station Construction Permit, Channel 52 at Blanco, TX; Auction Scheduled for July 12, 2000; Minimum Opening Bids and Other Procedural Issues

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction and procedures governing the auction of licenses for a new television station construction permit at Blanco, Texas (''Auction No. 80''), scheduled to commence on July 12, 2000.

**DATES:** Auction No. 80 is scheduled for July 12, 2000.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Burnley, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660; Shaun Maher, Audio Services Division, Mass Media Bureau, at (202) 418–2324.

**SUPPLEMENTARY INFORMATION:** This is a summary of a public notice released June 5, 2000 (*''Auction Public Notice''*). The complete text, including all attachments, of the Auction Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20035, (202) 857–3800. It is also available on the Commission's website at *http://www.fcc.gov/wtb/auctions*.

## I. General Information

*A. Introduction*

1. The *Auction Public Notice* announces the procedures and minimum opening bid for the upcoming auction of a construction permit for Channel 52 at Blanco, Texas (''Auction No. 80''). On May 12, 2000, the Mass Media Bureau (''MMB'') and the Wireless Telecommunications Bureau (''WTB'') (collectively, the ''Bureaus'') released the *Auction No. 80 Comment Public Notice*, seeking comment on the establishment of reserve price and/or minimum opening bid for Auction No. 80, in accordance with the Balanced Budget Act of 1997. *See* Auction of Construction Permit For New Television Station Channel 52 at Blanco, Texas Scheduled for July 12, 2000; Comment Sought on Reserve Price or Minimum Opening Bid and Other Auction Procedural Issues, *Public Notice*, DA 00–1069 (released May 12, 2000) (*''Auction No. 80 Comment Public Notice''*). *See also* section 3002(a), Balanced Budget Act of 1997, Public Law 105–33, 111 Stat. 251 (1997) (''Budget Act''); 47 U.S.C. 309(j)(4)(F). In addition, the Bureaus sought comment on a number of procedures to be used in Auction No. 80. The Bureaus received no comments in response to the *Auction No. 80 Comment Public Notice*.

i. Construction Permit To Be Auctioned

2. The construction permit available in Auction No. 80 is for a new analog, full-power, television station on Channel 52 at Blanco, Texas. This construction permit is the subject of pending, mutually exclusive short-form applications (FCC Form 175) and participation in this auction is limited to the applicants identified in Attachment A of the *Auction Public Notice*. The minimum opening bid and upfront payment for this construction permit are also included on Attachment A of the *Auction Public Notice*.

*B. Rules and Disclaimers*

i. Relevant Authority

3. Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to broadcast auctions, contained in title 47, part 73 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions contained in the *Auction Public Notice*, the *Auction No. 80 Comment Public Notice*, the *Broadcast First Report and Order* (*see* Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97–234, GC Docket No. 92–52 and GEN Docket No. 90–264, *First Report and Order*, 63 FR 48615 (September 11, 1998) (*''Broadcast First Report and Order''*)), the *Broadcast Reconsideration Order* (*see* Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97–234, *Memorandum Opinion and Order*, 64 FR 56974 (October 22, 1999) (*''Broadcast Reconsideration Order''*)), and the *New Entrant Bidding Credit Reconsideration Order* (*see* Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97–234, *Memorandum Opinion and Order*, 64 FR 44856 (August 18, 1999) (*''New Entrant Bidding Credit Reconsideration Order''*). Potential bidders must also familiarize themselves with part 1, subpart Q of the Commission's rules concerning competitive bidding proceedings.

4. The terms contained in the Commission's rules, relevant orders and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Internet node via anonymous ftp@ftp.fcc.gov or the FCC Auctions World Wide Web site at http://www.fcc.gov/wtb/auctions. Additionally, documents may be obtained for a fee by calling the Commission's copy contractor, International Transcription Service, Inc. (ITS), at (202) 314–3070. When ordering documents from ITS, please provide the appropriate FCC number.

ii. Prohibition of Collusion

5. Bidders are reminded that § 1.2105(c) of the Commission's rules prohibits short-form applicants from communicating with each other during the auction about bids, bidding strategies, or settlements unless they have identified each other as parties with whom they have entered into agreements under § 1.2105(a)(2)(viii). *See* 47 CFR 1.2105(c). For Auction No. 80, this prohibition became effective at the short-form application deadline (February 1, 2000) and will end on the down payment due date after the auction (to be announced in a future public notice). Applicants certified compliance with 47 CFR1.2105(c) when they signed their short-form applications. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.

6. Bidders in Auction No. 80 are encouraged not to use the same the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he/she is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (*e.g.*, law firm or consulting firm), a violation could similarly occur.

7. In addition, § 1.65 of the Commission's rules require an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. *See* 47 CFR 1.65. Thus, § 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules immediately upon learning of such violation. A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment E of the *Auction Public Notice*.

iii. Due Diligence

8. Potential bidders are solely responsible for investigating and evaluating all technical and market place factors that may have a bearing on the value of the Blanco television facility. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that a FCC auction represents an opportunity to become a FCC permittee in the broadcast service, subject to certain conditions and regulations. A FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does a FCC construction permit or license constitute a guarantee of business success. Applicants should perform their individual due diligence

before proceeding as they would with any new business venture.

9. Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 80 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 80 are strongly encouraged to continue such research during the auction.

10. Potential bidders should note that, in November 1999, Congress enacted the Community Broadcasters Protection Act of 1999 (CBPA) which established a new Class A television service. In response to the enactment of the CBPA, the Commission adopted rules to establish the new Class A television service. *See* Establishment of a Class A Television Service, MM Docket No. 00–10, *Report and Order*, 65 FR 29985 (May 10, 2000) (*''Class A Report and Order''*). In the *Class A Report and Order*, the Commission adopted rules to provide interference protection for eligible Class A television stations from new full power television stations. Given the Commission's ruling in the *Class A Report and Order*, the winning bidder in the auction for the new full power television station on Channel 52 at Blanco, Texas, upon submission of its long-form application (FCC Form 301), will have to provide interference protection to qualified Class A television stations. Therefore, potential bidders are encouraged to perform engineering studies to determine the existence of Class A television stations and their effect on the ability to operate a full power television station on Channel 52 at Blanco, Texas. Information about the identity and location of Class A television stations is available from the Mass Media Bureau's Consolidated Database System (CDBS) (public access available at: *http://www.fcc.gov/mmb*) and on the Mass Media Bureau's Class A television web page: http://www.fcc.gov/mmb/vsd/files/classa.html.

iv. Bidder Alerts

11. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 80 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a ''cold call'' from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of the minimum investment is less than $25,000.
- The sales representative makes verbal representations that: (a) The Internal Revenue Service (''IRS''), Federal Trade Commission (''FTC''), Securities and Exchange Commission (''SEC''), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

12. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals may also call the FCC National Call Center at (888) CALL–FCC ((888) 225–5322).

v. National Environmental Policy Act (NEPA) Requirements

13. The permittee must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a broadcast antenna facility is a federal action and the permittee must comply with the Commission's NEPA rules for each such facility. *See* 47 CFR 1.1305–1.1319. The Commission's NEPA rules require that, among other things, the permittee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The permittee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The permittee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

*C. Auction Specifics*

i. Auction Date

14. Auction No. 80 will begin on July 12, 2000. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding will be conducted on each business day until bidding has stopped on the construction permit.

ii. Auction Title

15. Auction No. 80—Blanco, Texas Broadcast

iii. Bidding Methodology

16. The bidding methodology for Auction No. 80 will be a multiple-round, ascending auction. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

iii. Pre-Auction Dates and Deadlines

- Auction Seminar—June 16, 2000
- Upfront Payments (via wire transfer)—June 26, 2000; 6 p.m. ET
- Orders for Remote Bidding Software—June 26, 2000; 5:30 p.m. ET
- Mock Auction—July 10, 2000
- Auction Begins—July 12, 2000

iv. Requirements for Participation

17. Those wishing to participate in the auction must:

- Be listed on Attachment A of this public notice.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, June 26, 2000.
- Comply with all provisions outlined in this public notice.

v. General Contact Information

- FCC Auctions Hotline: (888) 225–5322, Press Option #2 or direct (717) 338–2888. Hours of service: 8 a.m.–5:30 p.m. ET.
- Auction Legal Information: Auctions and Industry Analysis Division, Legal Branch (202) 418–0660.
- Licensing information: Mass Media Bureau, Video Services Division: (202) 418–1600.
- FCC Auctions Technical Support Hotline: (202) 414–1250 (Voice), (202) 414–1255 (TTY). Hours of service: 8 a.m.–6 p.m. ET.
- Payment Information: FCC Auctions Accounting Branch: (202) 418–1995.
- FCC Copy Contractor: International Transcription Services, Inc., 445 12th Street, SW Room CY–B400, Washington, DC 20554, (202) 314–3070.
- Press Information: Meribeth McCarrick (202) 418–0654.
- FCC Internet Sites:

*http://www.fcc.gov/wtb/auctions*
*http://www.fcc.gov*
*ftp://ftp.fcc.gov*

**II. Short-Form (FCC Form 175) Application Requirements**

*A. Minor Modifications to Short-Form Applications (FCC Form 175)*

18. Applicants may make only minor changes to their short-form applications. Applicants are not permitted to make major modifications to their applications (*e.g.,* change the certifying official or change control of the applicant or change bidding credits). *See* 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three), fax number, and revision of exhibits. Applicants should notify the Commission of these changes in a letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Suite 4–A760, Washington, DC 20554. A separate copy of the letter should be mailed to Kenneth Burnley, Auctions and Industry Analysis Division. After the Bureau's release of a public notice listing the qualified bidders in Auction No. 80, applicants should make these changes to their short-form applications on-line. Questions about other changes should be directed to Kenneth Burnley at (202) 418–0660.

*B. Maintaining Current Information in Short-Form Applications*

19. Applicants have an obligation under 47 CFR 1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in short-form applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the short-form application.

**III. Pre-Auction Procedures**

*A. Auction Seminar*

20. On June 16, 2000, the FCC will sponsor a free seminar for Auction No. 80 at the Federal Communications Commission, located at 445 12th Street, S.W. (Room 2–B516), Washington, D.C. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the broadcast service and auction rules. To register, complete the registration form included as Attachment B of this public notice and submit it by Wednesday, June 14, 2000. Registrations are accepted on a first-come, first-served basis.

*B. Upfront Payments—Due June 26, 2000*

21. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). FCC Form 159 must be completed manually and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6 p.m. ET on June 26, 2000. Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 80 go to a lockbox number different from the ones used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the June 26, 2000 deadline will result in dismissal of the application and disqualification from participation in the auction.

i. Auction Payments by Wire Transfer

22. Wire transfer payments must be received by 6:00 p.m. ET on June 26, 2000. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

- ABA Routing Number: 043000261
- Receiving Bank: Mellon Pittsburgh
- BNF: FCC/AC 910–1211
- OBI Field: (Skip one space between each information item)
- ''AUCTIONPAY''
- TAXPAYER IDENTIFICATION NO. (same as FCC Form 159, block 26)
- PAYMENT TYPE CODE (enter ''A80U'')
- FCC CODE 1 (same as FCC Form 159, block 23A: ''80'')
- PAYER NAME (same as FCC Form 159, block 2)
- LOCKBOX NO. ı 358435

**Note:** The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

23. Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 209–6045 at least one hour before placing the order for the wire transfer (but on the same business day). Bidders should confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.

ii. FCC Form 159

24. A completed FCC Remittance Advice Form (FCC Form 159) must accompany each upfront payment. Detailed instructions for completion of FCC Form 159 are included in Attachment C to the *Auction Public Notice.* The FCC Form 159 must be completed manually and filed with Mellon Bank via facsimile.

iii. Amount of Upfront Payment

25. In the *Auction No. 80 Comment Public Notice,* the Bureaus proposed an upfront payment of $420,000. No comments were received concerning this upfront payment. We therefore adopt our proposed upfront payment amount for Auction No. 80.

iv. Applicant's Wire Transfer Information for Purposes of Refunds

26. The Commission will use wire transfers for all Auction No. 80 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed below be supplied to the FCC. Applicants must fax the Wire Transfer Instructions by June 26, 2000, to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Tim Dates or Gail Glasser, at (202) 418–2843. Should the payer fail to submit the requested information, the refund will be returned to the original payer by check. For additional information, please call (202) 418–1995.

- Name of Bank
- ABA Number
- Contact and Phone Number
- Account Number to Credit
- Name of Account Holder
- Correspondent Bank (if applicable)
- ABA Number
- Account Number

*C. Auction Registration*

27. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose short-form applications have been accepted for filing and that have timely submitted an upfront payment.

28. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing part of the confidential identification codes required to place bids. These mailings will be sent only to the contact person at the contact

address listed in the short-form applications.

29. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Friday, July 7, 2000, should contact the Auctions Hotline at 717–338–2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

30. Qualified bidders should note that lost login codes, passwords or bidder identification numbers can be replaced only by appearing in person at the FCC Auction Headquarters located at 445 12th Street, S.W., Washington, D.C. 20554. Only an authorized representative or certifying official, as designated on an applicant's short-form application, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes. Qualified bidders requiring replacement codes must call technical support prior to arriving at the FCC to arrange preparation of new codes.

*D. Remote Electronic Bidding Software*

31. Qualified bidders are allowed to bid electronically or by telephone. If choosing to bid electronically, each bidder must purchase their own copy of the remote electronic bidding software. Electronic bids will only be accepted from those applicants purchasing the software. However, the software may be copied by the applicant for use by its authorized bidders at different locations. The price of the FCC's remote bidding software is $175.00 and must be ordered by Monday, June 26, 2000. For security purposes, the software is only mailed to the contact person at the contact address listed on the short-form application. Please note that auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 80.

*E. Mock Auction*

32. All qualified bidders will be eligible to participate in a mock auction on Monday, July 10, 2000. The mock auction will enable applicants to become familiar with the electronic software prior to the auction. Free demonstration software will be available for use in the mock auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

**IV. Auction Event**

33. The first round of bidding for Auction No. 80 will begin on Wednesday, July 12, 2000. The initial bidding schedule will be announced in the public notice listing the qualified bidders which is released approximately 10 days before the start of the auction.

*A. Auction Structure*

i. Multiple Round, Ascending Auction

34. In the *Auction No. 80 Comment Public Notice,* the Bureaus proposed to award the construction permit for Channel 52 at Blanco, Texas in a multiple-round, ascending auction. We received no comments on this issue. The Bureaus therefore conclude that it is operationally feasible and appropriate to auction the construction permit for Channel 52 at Blanco, Texas in a multiple-round, ascending auction. Unless otherwise announced, bids will be accepted on the construction permit in successive rounds of bidding.

ii. Maximum Eligibility and Activity Rules

35. In the *Auction No. 80 Comment Public Notice,* the Bureaus proposed that the amount of the upfront payment submitted by a bidder would determine the eligibility (as measured in bidding units) for participation in Auction No. 80. The Bureaus received no comments on this issue. For Auction No. 80, the Bureaus will adopt their proposal that the amount of the upfront payment submitted by a bidder determines the eligibility (in bidding units) for participation in Auction No. 80.

36. In addition, the Bureaus received no comments on their proposal for a single stage auction. Therefore, the Bureaus will adopt their proposal with the following activity requirements: a bidder must either place a valid bid and/or be the standing high bidder during each round of the auction rather than wait until the end before participating. A bidder is required to be active on 100 percent of their bidding eligibility. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's bidding eligibility, thus eliminating the bidder from the auction.

iii. Activity Rule Waivers and Reducing Eligibility

37. The Bureaus adopt their proposal that each bidder be provided three activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. We are satisfied that by providing three waivers over the course of the auction we will offer maximum flexibility to the bidders, while safeguarding the integrity of the auction.

38. The FCC automated auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any round where a bidder's activity level is below the minimum required. If there are no activity rule waivers available, the bidder's eligibility will be reduced, eliminating them from the auction.

39. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

iv. Auction Stopping Rules

40. For Auction No. 80, the Bureaus will employ a modified version of the stopping rule. The modified version of the stopping rule would close the auction after the first round in which no bidder submits a proactive waiver or a new bid on the construction permit when it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on the construction permit for which it is the standing high bidder would not keep the auction open under this modified stopping rule.

41. The Bureaus will further retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted. In addition, the Bureaus reserves the right to declare that the auction will end after a specified number of additional rounds (''special stopping rule''). The Bureaus will exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time. Under the stopping rule, bidding will remain open on the construction permit until bidding stops. The auction will close for the construction permit when one round passes during which no bidder submits

a new acceptable bid or applies a proactive waiver. After the first such round, bidding will close on the construction permit. In addition, the Bureaus retain the discretion to close the auction after the first round in which no bidder submits a proactive waiver or a new bid on the construction permit on which it is not the standing high bidder. Under this modified stopping rule, absent any other bidding activity, a bidder placing a new bid on the construction permit for which it is the standing high bidder would not keep the auction open under this stopping rule procedure.

42. The Bureaus also retain the discretion to keep the auction open even if no new acceptable bids or proactive waivers are submitted in a round. Further, in their discretion, the Bureaus reserve the right to invoke the ''special stopping rule.'' Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day.

v. Auction Delay, Suspension, or Cancellation

43. By public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. Exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

*B. Bidding Procedures*

i. Round Structure

44. The initial bidding schedule will be announced in the public notice listing the qualified bidders which is released approximately 10 days before the start of the auction. This public notice will be included with the registration mailings. The round structure contains a single bidding round followed by the release of the round results. Multiple bidding rounds may be conducted in a given day. Details regarding round result formats and locations will be included in a future public notice listing the qualified bidders of Auction No. 80. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The FCC may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

45. In the *Auction No. 80 Comment Public Notice,* the Bureaus proposed to establish a minimum opening bid for Auction No. 80 of $420,000. Specifically, for Auction No. 80, the Commission proposed calculating the minimum opening bid based on the potential value of the spectrum, including the type of service, market size, industry cash flow data and recent broadcast transactions. No comments were received, therefore we will adopt the minimum opening bid of $420,000, as proposed, for Auction No. 80.

iii. Bid Increments and Minimum Accepted Bids

46. The Bureaus will apply a minimum bid increment of 10 percent and will retain the discretion to change the minimum bid increment if circumstances so dictate. Once there is a standing high bid on the construction permit, there will be a bid increment associated with that bid indicating the minimum amount by which the bid on that permit can be raised. For Auction No. 80, the Bureaus will use a flat, across-the-board increment of 10 percent to calculate the minimum bid increment. The Bureaus retain the discretion to compute the minimum bid increment through other methodologies if it determines circumstances so dictate. Advanced notice of the Bureaus' decision to do so will be announced via the Automated Auction System.

iv. High Bids

47. Each bid will be date- and time-stamped when it is entered into the Automated Auction System. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which the Commission receives bids. The bidding software allows bidders to make multiple submissions in a round. As each bid is individually date- and time-stamped according to when it was submitted, a bid submitted by a bidder earlier in a round will have an earlier date and time stamp than a bid submitted later in a round.

v. Bidding

48. During a bidding round, a bidder may submit a bid, subject to its eligibility, as well as, remove a bid placed in the same bidding round. If a bidder submits multiple bids for the construction permit in the same round, the system takes the last bid entered as that bidder's bid for the round, and the date- and time-stamp of that bid reflects the latest time the bid was submitted.

49. Please note that all bidding will take place remotely either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 80.

50. When utilizing the bidding software, each bidder is required to login using the FCC account number, bidder identification number, and the confidential security codes provided in the registration materials. Bidders are strongly encouraged to download and print bid confirmations *after* they submit their bids.

51. The bid entry screen of the automated auction system software for Auction No. 80 allows bidders to place a multiple increment bid, which will let bidders increase a high bid from one to nine bid increments. A single bid increment is defined as the difference between the standing high bid and the minimum acceptable bid for the construction permit. The bidding software will display the bid increment.

52. To place a bid on the construction permit, the bidder must increase the standing high bid by one to nine times the bid increment. This is done by entering a whole number between 1 and 9 in the bid increment multiplier (Bid Mult) field in the software. This value will determine the amount of the bid (Amount Bid) by multiplying the bid increment multiplier by the bid increment and adding the result to the high bid amount according to the following formula:

Amount Bid = High Bid + (Bid Mult * Bid Increment)

53. Thus, bidders may place a bid that exceeds the standing high bid by between one and nine times the bid increment. For example, to bid the minimum acceptable bid, which is

equal to one bid increment, a bidder will enter ''1'' in the bid increment multiplier column and press submit.

54. In the first round of the auction, bidders will be limited to bidding only the minimum acceptable bid. In this case no increment exists for the construction permit, and bidders should enter ''1'' in the Bid Mult field. Note that in this case, any whole number between 1 and 9 entered in the multiplier column will result in a bid value at the minimum acceptable bid amount.

vi. Bid Removal and Bid Withdrawal

55. The Bureaus will employ bid removal and bid withdrawal rules. With respect to bid withdrawals, bidders will not be permitted to withdraw bids in any round. Before the close of a bidding round, a bidder has the option of removing a bid placed in that round. By using the ''remove bid'' function in the software, a bidder may effectively ''unsubmit'' a bid placed within that round. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.* a bid that is subsequently removed does not count toward the bidder's activity requirement. Once a round closes, a bidder may no longer remove a bid.

vii. Round Results

56. Bids placed during a round will not be published until the conclusion of that bidding period. After a round closes, the Commission will compile reports of all bids placed, current high bid, new minimum accepted bid, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and FCC account numbers for Auction No. 80 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

57. The FCC will use auction announcements to announce items such as schedule changes. All FCC auction announcements will be available on the FCC remote electronic bidding system, as well as on the Internet.

ix. Maintaining the Accuracy of Short-Form (FCC Form 175) Information

58. After the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Filers must make these changes on-line, and submit a letter summarizing the changes to: Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. A separate copy of the letter should be mailed to Kenneth Burnley, Auctions and Industry Analysis Division, 4–B524, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Applicants should make these changes to their short-form applications on-line after the Bureau's release of a public notice listing qualified bidders in Auction No. 80. Questions about other changes should be directed to Kenneth Burnley at (202) 418–0660.

## V. Post-Auction Procedures

*A. Down Payments*

59. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bid and bidder for the construction permit. Within ten business days after release of the auction closing public notice, the winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the United States Government to 20 percent of its net winning bid (actual bid less any applicable bidding credit). *See* 47 CFR 1.2107(b).

*B. Long-Form Application*

60. Within ten business days after release of the auction closing public notice, the winning bidder must electronically submit a properly completed long-form application and required exhibits for the construction permit won through the auction. If the winning bidder is claiming new entrant status it must include an exhibit demonstrating their eligibility for the bidding credit. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to the auction winner at the close of the auction.

*C. Default and Disqualification*

61. If the high bidder defaults or is disqualified after the close of the auction (*i.e.,* fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) it will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the construction permit or offer it to the next highest bidder (in descending order) at their final bid. *See* 47 CFR 1.2109(b) and (c). In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses or construction permits held by the applicant. *See* 47 CFR 1.2109(d).

*D. Refund of Remaining Upfront Payment Balance*

62. All applicants that submitted upfront payments but were not the winning bidder for the construction permit will be entitled to a refund of their upfront payment after the conclusion of the auction. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payment before the close of the auction. Bidders that have exhausted all of their activity rule waivers and have no remaining bidding eligibility must submit a written refund request which includes wire transfer instructions and a Taxpayer Identification Number (''TIN''), to:

- Federal Communications Commission
- Financial Operations Center
- Auctions Accounting Group
- Shirley Hanberry
- 445 12th Street, S.W., Room 1–A824
- Washington, D.C. 20554

Bidders can fax their request to the Auctions Accounting Group at (202) 418–2843. Once the request has been approved, a refund will be sent to the party identified in the refund information.

**Note:** Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Tim Dates or Gail Glasser at (202) 418–1995.

63. For additional information, please contact the following persons: Media: Meribeth McCarrick at (202) 418–0654. Auctions and Industry Analysis Division: Kenneth Burnley, Attorney, Auctions Legal Branch at (202) 418–0660; Lisa Stover, Project Manager or Bob Reagle, Analyst, Auctions Operations Branch at (717) 338–2888. Audio Services Division: Shaun Maher at (202) 418–2324.

Federal Communications Commission.

**Louis Sigalos,**

*Deputy Chief, Auctions and Industry Analysis Division.*

[FR Doc. 00–16099 Filed 6–23–00; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 2000.

**A. Federal Reserve Bank of Philadelphia** (Michael E. Collins, Senior Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

*1. Penn Woods Bancorp,* Williamsport, Pennsylvania; to acquire up to 19.9 percent of the voting shares of Columbia Financial Corporation, Bloomsburg, Pennsylvania, and thereby acquire First Columbia Bank & Trust, Bloomsburg, Pennsylvania.

Board of Governors of the Federal Reserve System, June 20, 2000.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 00–15983 Filed 6–23–00; 8:45 am]

**BILLING CODE 6210–01–P**

## 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 website 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 July 10, 2000.

**A. Federal Reserve Bank of Atlanta** (Lois Berthaume, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

*1. Lamar Capital Corporation,* Purvis, Mississippi; to acquire Lamar Data Solutions, Inc., Purvis, Mississippi, and thereby engage in data processing and data transmission activities, pursuant to section 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, June 20, 2000.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 00–15982 Filed 6–23–00; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 65 FR 38281, June 20, 2000.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 12 noon, Monday, June 26, 2000.

**CHANGES IN THE MEETING:** Addition of the following closed item(s) to the meeting: Future capital framework.

**CONTACT PERSON FOR MORE INFORMATION:** Lynn S. Fox, Assistant to the Board; 202–452–3204.

**SUPPLEMENTARY INFORMATION:** You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: June 21, 2000.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 00–16148 Filed 6–21–00; 4:38 pm]

**BILLING CODE 6210–01–P**

## FEDERAL TRADE COMMISSION

**[File No. 001–0059]**

### Pfizer Inc., et al.; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before July 19, 2000.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Molly Boast or Ann Malester, FTC/H–373, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2039 or 326–2682.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice

is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 19, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania, Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

**Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a proposed Consent Order from Pfizer Inc. (''Pfizer'') and Warner-Lambert Company (''Warner'') which is designed to remedy the anticompetitive effects of the merger of Pfizer and Warner. Under the terms of the agreement, the companies would be required to: (1) Terminate Warner's agreement with Forest Laboratories, Inc. (''Forest'') to co-promote the antidepressant Celexa; (2) divest Pfizer's RID pediculicide (used to treat head lice) business to Bayer Corporation (''Bayer''); (3) divest all of Warner's assets relating to the Alzheimer's drug, Cognex, to First Horizon Pharmaceutical Corporation; and (4) transfer and surrender to OSI Pharmaceuticals, Inc. (''OSI'') all of Pfizer's assets relating to the Epidermal Growth Factor receptor tyrosine kinase inhibitor, CP–358,774, for the treatment of cancer.

The proposed Consent Order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed Consent Order.

In their merger agreement of February 6, 2000, Pfizer and Warner propose to combine their two companies in a transaction valued at approximately $90 billion. Thereafter, the merged entity will be renamed Pfizer Inc. The proposed Complaint alleges that the proposed merger, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45, in the markets for: (1) SSRI/SNRI antidepressants; (2) pediculicides; (3) drugs for the treatment of Alzheimer's disease; and (4) EGFrtk inhibitors for the treatment of cancer. The proposed Consent Order would remedy the alleged violations by replacing the lost competition that would result from the merger in each of those markets.

*SSRI/SNRI Antidepressants*

Selective serotonin reuptake inhibitors (''SSRIs'') and selective norepinephrine reuptake inhibitors (''SNRIs'') are used to treat depression. Both SSRIs and SNRIs have the same effect on the neurotransmitter serotonin, which is believed to be an important mood regulator, SSRIs and SNRIs are favored by physicians because they offer once-a-day dosing and a lower side effect profile compared to earlier generation antidepressants. Annual U.S. sales of SSRI/SNRI antidepressants total approximately $7 billion.

The market for SSRI/SNRIs is highly concentrated. Pfizer and Warner compete directly against each other in the market for SSRI/SNRI antidepressants. Pfizer markets Zoloft, while Warner co-promotes Celexa with Forest. In 1999, Pfizer's Zoloft was the second-leading SSRI, with sales in the United States of over $2 billion, while Warner and Forest's Celexa was the fastest-growing SSRI with sales of $210 million.

There are significant barriers to entry into the SSRI/SNRI market. New entry into the manufacture and sale of drugs for the treatment of depression is difficult, expensive and time-consuming. It requires identifying a preclinical compound, performing animal safety tests, clinically developing the product in humans, and submitting a New Drug Application for approval by the Food and Drug Administration (''FDA'').In order to enter the market, a firm must incur substantial sunk costs to research, develop, manufacture and sell a SSRI/SNRI. De novo entry has been estimated to take between 8–12 years and cost upwards of $250 million. New entry sifficient to deter or counteract the anticompetitive effects of the merger would not occur in a timely manner. Nor would such entry be likely to occur in the face of a 5 to 10 percent increase in the prices of these drugs.

The proposed merger of Pfizer and Warner is likely to cause significant anticompetitive effects in the U.S. SSRI/SNRI market by increasing the likelihood of coordinated interaction among the remaining firms in the market and by eliminating Celexa, an aggressive new market entrant, as an independent competitor. As a result, American consumers of these drugs would likely pay higher prices and have fewer alternatives for SSRI/SNRI drugs for the treatment of depression.

The proposed Consent Order maintains competition in the SSRI/SNRI market requiring that: (1) Warner terminate, absolutely and in good faith, the Celexa Co-Promotion Agreement and Celexa Amendment in accordance with the terms of the Celexa Termination Agreement with Forest; (2) Warner return all confidential information regarding Celexa to Forest; (3) the former Warner sales personnel who participated in the marketing of Celexa maintain the confidentiality of this information; and (4) the former Warner sales personnel involved in marketing Celexa be prohibited from selling Zoloft for a period of time.

*Pediculicides*

Over-the-counter (''OTC'') pediculicides are used to treat head-lice infestation. While prescription products and home remedies may also be used for the treatment of head lice, OTC pediculicides are more effective, cheaper and safer than any available alternatives. Annual U.S. sales of OTC pediculicides total over $150 million.

The market for OTC pediculicides is highly concentrated. Pfizer and Warner are the two leading suppliers of OTC pediculicides in the United States, with approximately 30 percent of the market each. Thus, as a result of the merger, Pfizer would have a 60 percent share of the market. There are significant barriers to entry and expansion into this market. In order to enter the market, a firm must incur substantial sunk costs to research, develop, manufcture and sell OTC pediculicides. Existing private label and small branded suppliers of pediculicides are not likely to effectively reposition themselves in order to counteract a post-merger price

increase because of their minimal market presence, lack of scale economies and lack of consumer brand loyalty. The proposed merger is likely to lead to unilateral anticompetitive effects in the OTC pediculicide market by eliminating the actual, direct, and substantial competition between Pfizer and Warner and allowing the combined firm to raise prices.

The proposed Consent Order remedies the merger's anticompetitive effects by requiring that Pfizer divest its entire RID brand of pediculicide and all assets associated with this product line to Bayer.

*Drugs for the Treatment of Alzheimer's Disease*

Pfizer and Warner market the only two products sold in the United States for the treatment of Alzheimer's disease, Aricept and Cognex, respectively. Aricept dominates the market with more than 98 percent market share, while Cognex accounts for the remainder of the market. While the FDA has recently approved one new product, Novartis AG's Exelon, for the treatment of Alzheimer's disease, Novartis has yet to market its product. Even taking into account Novartis's entry into the market, the market will still be highly concentrated. There are significant barriers to entry into this market. New entry into the manufacture and sale of drugs for the treatment of Alzheimer's disease is difficult, expensive and time-consuming because of the lengthy development periods, the need for FDA approval, and the substantial sunk costs required to research, develop, manufacture and sell these drugs. As a result, entry likely to deter or counteract the likely anticompetitive effects of the proposed merger is unlikely.

The merger would result in Pfizer's having a monopoly in the market for drugs for the treatment of Alzheimer's disease, with that monopoly position lessening only slightly when Exelon is launched in the United States. Accordingly, the merger would increase Pfizer's dominant position in the market, allowing it to increase prices and potentially eliminate Cognex, the smaller competitor, from the market. The proposed Consent Order remedies the merger's anticompetitive effects by requiring Warner to divest Cognex to First Horizon Pharmaceutical Corporation.

*EGFr-tk Inhibitors for the Treatment of Cancer*

Pfizer and Warner are developing Epidermal Growth Factor receptor tyrosine kinase (''EGFr-tk'') inhibitors for the treatment of solid cancerous tumors. Solid tumor cancer targets include head and neck, non-small-cell lung, breast, ovarian, pancreatic and colorectal cancers. Currently, over 1.2 million Americans are diagnosed with solid tumor cancers each year. It is anticipated that EGFr-tk inhibitors will be used in conjunction with surgery, radiation and chemotherapy to treat cancer patients.

EGFr-tk inhibitors target the EGFr oncogene that regulates cancer cell growth. The EGFr has been identified as being over-expressed (too prevalent) in as many as 700,000 of the 1.2 million Americans diagnosed with a solid tumor cancer each year. Patients with an over-expression of EGFr are believed to have a worse prognosis than other cancer patients. Accordingly, scientists have developed drugs that attemp to inhibit the EGFr activity of cell division signal transduction that results in cancer cell proliferation.

The most advanced EGFr-tk inhibitors include those being developed by Pfizer and Warner. Pfizer and Warner are two of only a few companies in clinical development of EGFr-tk inhibitors for solid tumor cancers. There are significant barriers to entry into the market. In order to enter the market, a firm must incur substantial sunk costs to research, develop, manufacture and sell EGFr-tk inhibitors.

The proposed merger is likely to create anticompetitive effects in the EGFr-tk inhibitor market by potentially eliminating one of the few research and development efforts in this area. As a result of the merger, the combined entity could unilaterally delay, terminate or otherwise fail to develop one of the two competing EGFr-tk drugs, resulting in less product innovation, fewer choices, and higher prices for consumers.

To resolve these concerns, the proposed Consent order requires Pfizer to return its EGFr-tk inhibitor, CP–358,774, to its development partner, OSI. OSI holds a contractual right to obtain CP–358,774 should Pfizer terminate development efforts. Thus, while other companies have expressed interest in acquiring the rights to CP–358,774, none may do so without the prior approval of OSI.

The proposed Consent Order maintains competition in the research and development of EGFr-tk inhibitors for the treatment of cancer by requiring that Pfizer fulfill its obligations under the May 23, 2000 agreement between Pfizer and OSI to (1) transfer and surrender its rights to CP–358,774 to OSI; (2) grant OSI a royalty-free, irrevocable worldwide license, including the right to sublicense, to all of its rights in, and to, the patents currently owned jointly by OSI and Pfizer relating to EGFr-tk ihibitors; (3) complete, a Pfizer's cost, ongoing clinical trials of CP–358,774; (4) provide OSI with a manufacturing and supply agreement for the continued supply of CP–358,774, pending transfer of manufacturing technology to a new manufacturer; (5) assume liability for all completed clinical trials; and (6) transfer all know-how and technology relating to CP–358,774 to OSI. The Consent Order also provides for an Interim Trustee to be appointed to oversee Pfizer's obligations under the Order and to ensure the continued development and viability of CP–358,774.

The purpose of this analysis is to facilitate public comment on the proposed Consent Order, and it is not intended to constitute an official interpretation of the proposed Consent Order or to modify its terms in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 00–16041 Filed 6–23–00; 8:45 am]

BILLING CODE 6750–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Request for Nominations of Candidates To Serve on the National Vaccine Advisory Committee, Department of Health and Human Services

The Public Health Service (PHS) is soliciting nominations for possible membership on the National Vaccine Advisory Committee (NVAC). This committee studies and recommends ways to encourage the availability of an adequate supply of safe and effective vaccination products in the States; recommends research priorities and other measures the Director of the National Vaccine Program should take to enhance the safety and efficacy of vaccines; advises the Director of the Program in the implementation of sections 2102, 2103, and 2104, of the PHS Act; and identifies annually for the Director of the Program the most important areas of government and non-government cooperation that should be considered in implementing sections 2102, 2103, and 2104, of the PHS Act.

Nominations are being sought for individuals engaged in vaccine research or the manufacture of vaccines or who are physicians, members of parent organizations concerned with immunizations, or representatives of

State or local health agencies, or public health organizations. Federal employees will not be considered for membership. Members may be invited to serve a four-year term.

Close attention will be given to minority and female representation; therefore nominations from these groups are encouraged.

The following information is requested: name, affiliation, address, telephone number, and a current curriculum vitae. Nominations should be sent, in writing, and postmarked by August 30, 2000, to: Gloria Sagar, Committee Management Specialist, NVAC, National Vaccine Program Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, m/s D–66, Atlanta, Georgia 30333. Telephone and facsimile submission cannot be accepted.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: June 19, 2000.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 00–16031 Filed 6–23–00; 8:45 am]

**BILLING CODE 4163–18–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 00065]**

## American Indian/Alaska Native Support Centers for Tobacco Programs; Notice of Availability of Funds

### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year 2000 for cooperative agreements with American Indian/Alaska Native (AI/AN) tribes, tribal organizations, including urban, and eligible inter-tribal consortia. The purpose of the funds is to develop or improve tobacco-related resource networks and outreach to AI/AN tribes. This will enable tribal communities to address and impact the high rates of tobacco use in this population. Assistance to tribes may consist of training and technical assistance, networking and partnership building, and promoting collaboration with other tribes, national organizations (*e.g.,* American Cancer Society, American Lung Association), States and the Federal government.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2010, a national activity to reduce morbidity and mortality and improve quality of life. This announcement is related to the focus area of Tobacco Use. For the conference copy of ''Healthy People 2010'' visit the internet site: <http://www.health.gov/healthypeople>.

### B. Eligible Applicants

Eligible applicants are AI/AN tribes, tribal organizations, including urban and eligible inter-tribal consortia. An individual AI/AN tribe or urban center is eligible to apply if its tribal population is at least 60,000 or if it represents other regional AI/AN tribes or urban populations with a combined population of at least 60,000. Tribal organizations and inter-tribal consortia are eligible if they represent tribes within a region with a combined population of at least 60,000 and if they are incorporated for the primary purpose of improving AI/AN health and represent such interests for the tribes or urban Indian communities located in its region. AI/AN tribes or urban communities represented may be located in one state or in multiple states. An urban organization is defined as a non-profit corporate body situated in an urban center eligible for services under Title V of the Indian Health Care Improvement Act, PL 94–437, as amended. Applicants should submit with application an executive summary of not more than one page and a completed and signed Eligibility Certification Form (see addendum 3 in the application package). The Eligibility Certification Form is a checklist, which will define your eligibility.

Competition is limited to those identified under ''Eligible Applicants'' because of the problems posed by tobacco use as evidenced by high prevalence, tobacco-related morbidity and mortality and the unique challenges faced by this population for tobacco control and prevention (see addendum 2 in the application package).

*Pre-Application Telephone Conference*

Applicants are invited by CDC to participate in a pre-application technical assistance telephone conference June 30, 2000 promptly at 2:00 p.m.(Eastern time) to discuss: programmatic issues regarding this program; how to apply; and questions regarding the content of the program announcement. This telephone conference is expected to last one hour. The conference name is Tobacco RFA. The telephone bridge number for Federal participants is 404–639–3277 for non-Federal participants call 1–800–311–3437. Participants will need to enter the following conference code when prompted to be connected #345150. All questions and comments will be recorded and published on the Internet at http://www.cdc.gov/funding as an attachment to this program announcement.

**Note:** Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

### C. Availability of Funds

Approximately $1,000,000 is available in FY 2000 to fund five to six awards. It is expected that the average annual award will be $170,000, ranging from $125,000 to $200,000. This award amount includes expenses for indirect costs. It is expected that the awards will begin September 30, 2000 and will be made for a 12-month budget period within a project period of up to five years.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

*Funding Preference*

Funding preference will be given to the geographical areas defined by the Indian Health Service which demonstrate need based on high prevalence, high tobacco-related morbidity and mortality; which lack tobacco control initiatives and culturally appropriate resources; and which show early initiation of commercial tobacco use among young people. CDC will fund up to six awards, only one award will be made within a geographical area.

### D. Program Requirements

In conducting activities to achieve the goals and objectives of this program, the recipient will be responsible for the activities under 1 (Recipient Activities), and CDC will be responsible for the activities listed under 2 (CDC Activities).

*1. Recipient Activities*

(a) Establish a technical support center and assist tribes with tobacco control needs such as data collection,

resource identification and distribution, training and educational development, and surveillance and evaluation. Provide technical assistance to tribes in developing and conducting local tobacco control programs aimed at reducing the prevalence of commercial tobacco use through social and environmental changes.

(b) Facilitate the development of tobacco prevention and control skills in represented tribes. This may be accomplished through training, leadership education, public education, or other approaches culturally appropriate for the tribes. Recipients may also provide fiscal assistance to tribes, schools and other AI/AN organizations for planning, implementing and evaluating local tobacco control activities.

(c) Participate in a network of local tribal tobacco control programs, to promote and facilitate collaborative efforts among programs, as well as, with other AI/AN tribes and organizations nationwide who are involved in similar programs. Assist tribes in establishing formal and informal linkages where appropriate with national, State, and local tobacco control organizations, networks, or coalitions (*e.g.,* State health departments, American Cancer Society, American Lung Association, Smokeless States, National Center for Tobacco Free Kids, etc.).

(d) Assist tribes in planning and implementing tobacco control activities, which address at least two of the four CDC Office on Smoking and Health's priority goals:

(1) Prevent initiation among young people;

(2) Promote quitting among adults and youth;

(3) Eliminate exposure to environmental tobacco smoke;

(4) Identify and eliminate disparities among populations.

*2. CDC Activities*

(a) In collaboration with the Indian Health Service, as needed, provide appropriate training on tobacco control and prevention strategies (*e.g.,* building partnerships, implementing guidelines and model programs on clean indoor air protection and reducing the sale of tobacco products to minors) which prepare tribes to mobilize and engage in tobacco control initiatives.

(b) Provide technical assistance through conference calls, resource material, training, and updated information, as needed. Facilitate communications locally, regionally, and nationally regarding resources and other opportunities involving tobacco control.

(c) Participate in the evaluation of activities and initiatives, including annual site visits.

**E. Application Content**

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. Submit an original and two copies of the application, unstapled, and unbound. The narrative should be no more than 30 double-spaced pages, printed on one side, with one-inch margins, and unreduced font. The thirty pages do not include budget, appended pages or items placed within appended pages such as resumes, letters of support, etc.

The application should include the following:

*1. Program Description*

(a) Describe the applicant's tribe, organization or consortia, including purpose or mission, years of existence, and experience in representing the health-related interests of the represented tribes.

(b) Describe the represented tribes, including:

(1) The population size of the total tribes represented as well as that of individual tribes.

(2) The represented tribes' geographical locations, their proximity to you and how you plan to reach the tribes.

*2. Need To Address Tobacco Control*

(a) Describe the needs for developing tobacco control programs among the represented tribes and how the applicant will assist tribes in addressing identified needs. The information provided should describe the following:

(1) Applicants should discuss the extent of the tobacco use problem in their represented tribes, including discussion of prevalence rates and any variations in prevalence among represented tribes, morbidity and/or mortality associated with tobacco use, early initiation of tobacco use among young people, and other evidence of the problem.

(2) Applicants should describe the need for tobacco control strategies that are appropriate for their populations, including discussion of the challenges, limitations and/or opportunities for implementing tobacco control.

(3) Applicants should describe the need to develop a comprehensive and sustainable tobacco control program, among the represented tribes.

*3. Goals and Objectives*

(a) Goals: List realistic goals that will be achievable over the five-year project period.

(b) Objectives: List objectives for each of the recipient activities for the budget period (one-year). Objectives should be specific, measurable, achievable, relevant and time-phased.

*4. Annual Action Plan*

(a) Submit a plan that identifies specific activities for each objective during the budget period. This plan must describe how the applicant will achieve the activities, and who will be targeted with each activity.

(b) Identify staff responsible for completing each activity, timelines, and evaluation.

(c) Applicants are encouraged to use the annual action plan form, included as addendum 5, to address key components of their plan. A sample annual action plan is included as (addendum 4 in the application package).

*5. Capacity*

(a) Submit a letter of commitment from the represented tribes' leadership, which indicates the tribe's willingness to participate in the program.

(b) Describe the purpose and goals and how the applicant communicates and disseminates information and guidance to the represented tribes and their membership (*e.g.,* newsletters, conferences, and meeting minutes).

(c) Submit a copy of the applicant's organizational chart and describe the existing structure and how it supports the development of a tobacco control agenda and programs.

(d) Describe how applicant will manage the project to accomplish recipient activities.

(e) Describe the proposed project staffing. Provide job descriptions and indicate if they are for existing or proposed positions. Staffing should include the commitment of at least one full-time staff member to provide direction for the proposed activities. Demonstrate that the staff member(s) have the professional background, experience, and organizational support needed to fulfill the proposed responsibilities. Include a curriculum vitae for each staff member.

(f) Applicants should describe experience in community development, including, but not limited to:

(1) Current and past experience in providing leadership in the development of health-related programs, training programs or health promotion campaigns.

(2) Current and past experience in the area of tobacco prevention and control, including descriptions of activities and initiatives implemented.

(3) Current and past experience in networking and in building partnerships and alliances with other organizations.

(4) Ability to provide support, outreach, and technical assistance on health-related matters to the represented tribes.

*6. Evaluation*

(a) Provide a plan for monitoring progress in meeting the program requirements.

(1) Describe how the applicant will determine effectiveness of the technical support center, especially in building capacity for tobacco control among the represented tribes (*e.g.,* the number and comprehensiveness of the tribal tobacco control program development, the sustainability of such programs, the frequency and nature of services to support and sustain such programs).

(2) Describe how the applicant will document tobacco control skill development among tribes (*e.g.,* number of trainings conducted, level of difficulty of the training and their rationale, evidence of acquired skills through application, and the impact on program objectives).

(3) Describe how the applicant will assess the quantity and quality of networking efforts (*e.g.,* number of planning meetings or meeting with leadership and the degree of collaboration with leadership and other tobacco control programs and organizations).

(4) Describe how the applicant will assess performance toward addressing two of the four Office on Smoking and Health priority goals.

(b) Evaluation of program performance should include:

(1) Process evaluation: Applicants should describe how they plan to measure the implementation and progression of various activities in achieving the objectives during each twelve-month budget period. Description should include any current available sources of data, instruments to be used for new data collection, as well as specifics of data collection (*e.g.,* sample sizes, selection, and analyses).

(2) Outcome evaluation: Applicants should describe how they plan to measure the outcome of their goals and objectives.

*7. Budget and Accompanying Justification*

(a) Provide a detailed budget and line item justification that is consistent with the stated objectives and planned activities. To the extent possible, applicants are encouraged to include budget items for the following:

(1) Travel for 1–2 persons to attend and participate in the week-long Training Institute or the 3-day National Tobacco Control Conference held annually.

(2) One trip to Atlanta, GA, for 1–2 persons, to attend a training and technical assistance workshop.

**F. Submission and Deadline**

*Application*

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189) and the signed Eligibility Certification Form (see addendum 3 in the application package). The Eligibility Certification Form is a checklist, which will define your eligibility. Forms are available at the following Internet address: http://www.cdc.gov/od/pgo/forminfo.htm, or the application kit. On or before July 24, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

*Deadline:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*Late Applications:* Applications, which do not meet the criteria in (a) or (b) above, are considered late applications, will not be considered, and will be returned to the applicant.

**G. Evaluation Criteria (100 Points)**

An independent review group appointed by CDC will evaluate each application individually according to the following criteria.

*1. Program Description (5 Points)*

The extent to which the applicant clearly defines itself and its relationship to the represented tribes, including its past experiences and future plans to reach and work with the target populations.

*2. Need To Address Tobacco Control (25 Points)*

The extent of the need for tobacco control program development for both the applicant and the represented tribes.

*3. Goals and Objectives (15 Points)*

The extent to which the goals and objectives are consistent with the purpose of the announcement and are achievable. The extent to which the objectives in the annual plan are specific, measurable, achievable, relevant and time-phased and likely to be accomplished during the first 12-month budget period.

*4. Annual Action Plan (20 Points)*

The feasibility, appropriateness, and extent to which the Plan describes:

(a) Organizational involvement in program activities;

(b) Activities likely to achieve objectives during the one-year budget period;

(c) Roles and responsibilities of staff person(s) in addressing the recipient activities;

(d) Timelines for completing proposed activities;

(e) Proposed linkages with other tobacco control networks (e.g., tribal, other public or private organizations) in carrying out the action plan.

*5. Capacity (25 Points)*

The extent of the applicant's capacity and ability to conduct the activities as evidenced by:

(a) Statement of commitment by tribes and communication of purpose and goals between the applicant and represented tribes;

(b) The organizational chart, structure, and support for tobacco program development;

(c) Management plan to accomplish recipient activities;

(d) Current and/or proposed project staff and job descriptions;

(e) Professional background and experience of current or proposed staff;

(f) Past experiences in providing leadership in the development of health-related programs, in building partnerships and alliances and in networking with public and private agencies.

*6. Evaluation (10 Points)*

The extent and appropriateness of the evaluation plan in measuring progress toward achieving objectives as well as in determining the degree to which program requirements are being met.

*7. Budget and Accompanying Justification (Not Scored)*

The extent to which the applicant provides a detailed and clear budget consistent with the stated objectives and work plan.

**H. Other Requirements**

*Technical Reporting Requirements*

Provide CDC with an original plus two copies of a progress report on a semi-annual basis. Progress reports are required no later than 30 days after the end of the first six months of the budget period, and 30 days after the end of the twelve-month budget period. The progress reports must include the following for each goal and objective:

1. Comparison of actual accomplishments to the objectives established for the period;
2. Reasons for not meeting any established objectives;
3. Other pertinent information, including explanations of any unexpected events or costs.

A Financial Status Report (FSR) is required no later than 90 days after the end of each budget period. The final FSR and progress report is required no later than 90 days after the end of the project period. Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. All reports must be submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

The following additional requirements are applicable to this program. For a complete description of each, see Addendum I in the application package.

AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act
AR–10 Smokefree Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

**I. Authority and Catalog of Federal Domestic Assistance Number**

This program is authorized under sections, 301(a) and 317(k)(2) [42 U.S.C., section, 241(a), and 247b(k)(2)]of the Public Health Service Act, as amended. The catalog of Federal Domestic Assistance number 93.283.

**J. Where To Obtain Additional Information**

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov, click on ''funding'' then ''Grants and Cooperative Agreements.''

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from:

Kimberly Pope, Grants Management Specialist, Grant Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2767, FAX: (770) 488–2777, Email address: kgp6@cdc.gov

Program technical assistance may be obtained from:

Lorene Reano, CDC-Indian Health Service Tobacco Control Program, 5300 Homestead Road NE, Albuquerque, NM 87110, Telephone: (505) 248–4134, E-mail address: lorene.reano@mail.ihs.gov

or

Victor Medrano, CDC Office on Smoking and Health, 4770 Buford Highway, NE, Atlanta, GA 30341–3717, Telephone: (770) 488–1125, E-mail address: vdm6@cdc.gov.

Dated: June 19, 2000.

**John L. Williams,**

*Director, Procurement and Grants Office, Centers for Disease Control and Prevention.*

[FR Doc. 00–16034 Filed 6–23–00; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Advisory Committee for Energy-Related Epidemiologic Research: Cancellation of Meeting

This notice announces the cancellation of previously announced meeting.

**Federal Notice Citation of Previous Announcement**

**Federal Register:** June 13, 2000 (Volume 65, Number 114) [Notices]—[Page 37153–37154].

*Change in the Meeting:* This meeting has been cancelled.

**CONTACT PERSON FOR MORE INFORMATION:** Michael J. Sage, Executive Secretary, ACERER, and Acting Deputy Director, NCEH, CDC, 4770 Buford Highway, NE, (F–28), Atlanta, Georgia 30341–3724, telephone 770/488–7002, fax 770/488–7015.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 22, 2000.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 00–16275 Filed 6–23–00; 10:29 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Grant to American Public Human Services Association

**AGENCY:** Office of Family Assistance, ACF, DHHS.

**ACTION:** Grant award announcement.

**SUMMARY:** Notice is hereby given that an award is being made to the American Public Human Services Association (APHSA), of Washington, DC in the amount of $15,000 for support to their Executive Leadership Institute. The Executive Leadership Institute of APHSA is designed by and for State Human Service Administrators and offers various educational activities that will enhance the skills and leadership capacity of State Human Service Administrators and other high-level policy makers involved in implementation of State Temporary Assistance to Needy Families (TANF) Programs. The American Public Human Services Association is a very unique organization in the Welfare Reform community. The mission of APHSA is to develop, promote, and implement public human service policies that improve the health and well being of families children, and adults. APHSA educates members of Congress, the media, and the broader public on what is happening in the States concerning welfare, child welfare, healthcare reform, and other issues that directly impact our TANF program. The Executive Leadership Institute focuses its efforts on the Top State Human Service Executive and Senior Managers and other high level policy makers. By partnering with APHSA on this project, the Administration for Children and Families will further its goal in Welfare Reform by enhancing the skills and leadership capacity of the Human Service Administrators and other high level policy makers involved in implementing their TANF programs. After the appropriate reviews, it has been determined that this proposal qualifies as a sole source award.

The period of this funding will extend through May 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Paul Maiers, Office of Family Assistance, Administration for Children and Families, 370 L'Enfant Promenade, SW, Washington, DC 20447, Telephone: 202–401–5438.

Dated: June 20, 2000.

**Alvin C. Collins,**

*Director, Office of Family Assistance.*

[FR Doc. 00–16055 Filed 6–23–00; 8:45 am]

**BILLING CODE 4184–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Grant to Welfare Information Network

**AGENCY:** Office of Family Assistance, ACF, DHHS.

**ACTION:** Grant award announcement.

**SUMMARY:** Notice is hereby given that an award is being made to the Welfare Information Network of Washington, DC in the amount of $75,000 for information dissemination activities on welfare reform. After the appropriate reviews, it has been determined that this proposal qualifies as a sole source award. Over the past four years, the Welfare Information Network (WIN) has been one of the leading nonprofit organizations in disseminating information and materials on welfare reform. The WIN network is a very unique organization in the welfare reform community. It has created a database on the cutting edge of Welfare to Work promising strategies through a synthesis of the latest research, site visits, and surveys of practitioners and service providers. The WIN organization has been an extremely valuable partner with the Office of Family Assistance in several clearinghouse and networking activities. This partnership with the WIN Organization has proven to be invaluable to States and communities in obtaining the information, policy analysis, and technical assistance they need to develop and implement changes that have helped to reduce dependency and promote the well-being of children and families. The period of this funding will extend through May 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Paul Maiers, Office of Family Assistance, Administration for Children and Families, 370 L'Enfant Promenade, SW, Washington, DC 20447, Telephone: 202–401–5438.

Dated: June 20, 2000.

**Alvin C. Collins,**

*Director, Office of Family Assistance.*

[FR Doc. 00–16056 Filed 6–23–00; 8:45 am]

**BILLING CODE 4184–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 99P–2630]**

### Food Labeling: Added Sugars; Availability of Citizen Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability for comment of a petition submitted by the Center for Science in the Public Interest (CSPI). The petition requested that FDA establish a Daily Reference Value (DRV) for added sugars with a corresponding Daily Value, require the declaration of added sugars, and revise criteria pertaining to nutrient content claims and health claims.

**DATES:** Submit written comments on the petition by September 25, 2000.

**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Electronic comments may be submitted via the Internet to: www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm or via e-mail to: fdadockets@oc.fda.gov. All comments should be identified with the docket number found in brackets in the heading of this document. The petition is available for review at the Dockets Management Branch (address above) or electronically on the agency's web site at http//www.fda.gov/ohrms/dockets/dockets.htm. You may also request a copy of the petition from the Dockets Management Branch.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Smith, Office of Nutritional Products, Labeling, and Dietary Supplements, Center for Food Safety and Applied Nutrition (HFS–832), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5372.

**SUPPLEMENTARY INFORMATION:**

#### I. The Citizen Petition

CSPI, in a citizen petition filed on August 4, 1999, requested that the agency establish a DRV of 40 grams for added sugars and require the declaration of added sugars in nutrition labeling in both grams per serving and a corresponding percent Daily Value. CSPI also requested that FDA define nutrient content claims for added sugars. Finally, CSPI requested that, when nutrient content or health claims are made about a food, meal product, or main dish product, FDA set, in addition to the limits on other nutrients described in the current regulations, limits and require disclosure of the total amount of added sugars for these claims.

CSPI's ground for its petition is that the labeling provision for added sugars is necessary as a public health measure to give consumers the tools they need to reduce their intake of added sugars. CSPI states in the petition that based on U.S. Department of Agriculture (USDA) data, the per capita consumption of added sugars has risen 28 percent since 1983, and that, in some people, diets with large amounts of added sugars contribute to obesity, the prevalence of which has risen dramatically in the last two decades in both youths and adults. CSPI also asserts that diets with added sugars, from such foods as soft drinks, fruit drinks, candy, cakes, and cookies, include fewer healthier foods that provide nutrients that reduce the risk of osteoporosis, cancer, heart disease, stroke, and other health problems. In addition, CSPI states that frequent consumption of foods with added sugars promotes tooth decay.

CSPI asserts that it is impossible for consumers to determine how much sugar has been added to foods such as yogurt, ice cream, fruit snacks, and juice drinks using current labels. In addition, CSPI states that current labels fail to inform consumers about the proportion of a reasonable day's intake of added sugars that a serving of food provides. CSPI maintains that, although USDA provided quantitative dietary recommendations for added sugars in The Food Guide Pyramid, without labeling of added sugars, it is difficult for consumers to follow such recommendations. USDA's quantitative recommendation serves as the basis for CSPI's request for a DRV of 40 grams for added sugars.

#### II. FDA Background

FDA addressed comments on added sugars in the January 6, 1993, final rule entitled ''Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label'' (58 FR 2079). Comments had recommended mandatory declaration of added sugars only, rather than total sugars, in nutrition labeling and either mandatory or voluntary declaration of both added

and naturally occurring sugars (58 FR 2079 at 2098). FDA listed three reasons for deciding against implementing these recommendations: (1) The body does not make any physiological distinction between added and naturally occurring sugars in foods; (2) for most foods there is no analytical method to differentiate between added and naturally occurring sugars; and (3) the declaration of only added sugars could significantly underrepresent the sugars content of many foods that have a large quantity of naturally occurring sugars. Instead, the final rules required that total sugars be a mandatory component of nutrition labeling (21 CFR 101.9(c)(6)(ii)) (58 FR 2079 at 2176).

In the January 6, 1993, final rule entitled ''Food Labeling; Reference Daily Intakes and Daily Reference Values'' (58 FR 2206), FDA concluded that there was not sufficient basis to establish a DRV for added sugars because there was no conclusive evidence that demonstrated that sugars intake from any source was associated with chronic disease conditions. Additionally, the agency noted the absence of analytical capabilities to distinguish between added sugars and naturally-occurring sugars and the lack of consensus concerning the specific proportion of total carbohydrate that should be attributed to total sugars and complex carbohydrate. In conclusion, FDA did not support the separate establishment of DRV's for added sugars, naturally-occurring sugars, and total sugars (58 FR 2206 at 2221 and 2222).

FDA's food labeling regulations do require that sugars that are used as ingredients in a food product (i.e., that are added) be declared in the ingredient list on the label or labeling of that food (21 CFR 101.4(a)(1)). The listing of the added sugars must be by the common or usual name of the particular sugar and be in descending order of predominance among the other ingredients in the food product.

### III. Comments

You may submit written or electronic comments to the Dockets Management Branch (address above), on or before September 25, 2000. Electronic comments may be submitted via the Internet to: www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm or via e-mail to: fdadockets@oc.fda.gov. Groups or organizations must submit two copies of any comments. Individuals may submit one copy of their comments. Identify your written comments by placing the docket number at the top of your comment(s). If you base your comments on scientific evidence or data, please submit copies of the specific information along with your comments. Any comments submitted will be filed under the docket number identified in brackets in the heading of this document. The petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 16, 2000.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 00–16066 Filed 6–23–00; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 98N–0359]**

### Program Priorities in the Center for Food Safety and Applied Nutrition; Request for Comments

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting comments concerning the establishment of program priorities in the Center for Food Safety and Applied Nutrition (CFSAN) for fiscal year (FY) 2001. As part of its annual planning, budgeting, and resource allocation process, CFSAN is reviewing its programs to set priorities and establish work product expectations. This notice is being published to give the public an opportunity to provide input into the priority-setting process.

**DATES:** Written comments by August 25, 2000.

**ADDRESSES:** Submit written comments concerning this document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Donald J. Carrington, Center for Food Safety and Applied Nutrition (HFS–666), Food and Drug Administration, 200 C St., SW Washington, DC 20204, 202–260–5290, e-mail: DCarring@cfsan.fda.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On February 10, 2000, CFSAN released a document entitled ''2000 CFSAN Program Priorities.'' The document, a copy of which is available on CFSAN's web page (www.cfsan.fda.gov), constitutes the Center's priority workplan for a 9-month period, from January 1, 2000, through September 30, 2000, the end of the fiscal year. Henceforth, to be consistent with the Federal budgetary cycle, the priority-setting process and development of annual workplans will be done on a fiscal year basis. The 2000 workplan is based on input we received from our stakeholders (see 64 FR 47845, September 1, 1999), as well as input generated internally. Throughout the priority-setting process, we focused on one central question: ''Where do we do the most good for consumers?''

Approximately half of the 2000 workplan consists of activities implementing the President's Food Safety Initiative (FSI). This is consistent with the fact that currently, approximately half the Center's resources are devoted to FSI work (i.e., all activities related to pathogen reduction in food.) Outside of FSI, the workplan identifies five program areas and six cross-cutting areas that need emphasis. The five program areas are: (1) Premarket review of food ingredients; (2) nutrition, health claims, and labeling; (3) dietary supplements; (4) chemical and other contaminants; and (5) cosmetics.

The six cross cutting areas are: (1) Enhancing the science base, (2) international activities, (3) emerging areas such as food biotechnology, (4) enhancing regulatory processes, (5) focused economic-based regulations, and (6) management initiatives.

In keeping with last year's format, the workplan contains two lists of activities in most major sections of the document, i.e., the ''A'' list and the ''B'' list. Because we condensed this year's plan to three-fourths of the year (9 months), our goal will be to fully complete at least three-quarters of the ''A'' list activities. Activities on the ''B'' list are those we plan to make progress on, but may not complete before the end of the fiscal year. CFSAN has responsibility for many important ongoing activities that are not identified in the workplan. For example, the Center's base programs in data collection, research, and enforcement are important and are ongoing. Rather, the workplan addresses primarily those initiatives representing something new or different that we need to address in 2000. In addition, the workplan does not address the myriad of unanticipated issues which often require a substantial investment of CFSAN resources (e.g., response to outbreaks of foodborne illness).

**II. 2001 CFSAN Program Priorities**

FDA is requesting comments concerning the establishment of program priorities in CFSAN for FY 2001. The input will be used to develop CFSAN's 2001 workplan. The workplan will set forth the Center's program priorities for October 1, 2000, through September 30, 2001. FDA intends to make the 2001 workplan available in October 2000.

The format of the 2001 workplan will be similar to the 2000 workplan. Moreover, FDA expects there will be considerable continuity between the 2000 and 2001 workplans. For example, a broad program area targeted for enhancement in the 2000 plan is improving the safety of imported food; five specific activities are identified to implement the Imported Foods Action Plan. As the initiative to prevent importation of unsafe food requires a multiyear effort, ensuring the safety of imported food will continue to be a high priority in the 2001 workplan. The same is true for the Egg Safety Action Plan. FDA requests comments on other broad program areas that should continue to be a priority in FY 2001.

In addition, because the 2000 workplan, as noted above, was a condensed (i.e., 9-month) plan, our goal for FY 2000 will be to fully complete at least three-quarters of the ''A'' list activities. FDA requests comments on those ''A'' list activities in the 2000 plan that, if not completed, should be carried over to the 2001 workplan. FDA also requests comments on the FY 2000 ''B'' list activities that should be elevated to the ''A'' list for completion in FY 2001. Finally, FDA requests comments on new program areas or activities that should be a high priority for FY 2001.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this notice by August 25, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 19, 2000.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 00–16067 Filed 6–23–00; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Medical Imaging Drugs Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Medical Imaging Drugs Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on July 10, 2000, 8:30 a.m. to 5:30 p.m.

*Location:* Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

*Contact Person:* Thomas H. Perez, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6758, e-mail at PerezT@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12540. Please call the Information Line for up-to-date information on this meeting.

*Agenda:* The committee will discuss biologic license application (BLA) 99–1407, Leutech™ (Technicium labeled TC99M anti/CD15 antibody injection), Palatin Technologies, Inc., imaging agent as an aid in the diagnosis of equivocal appendicitis.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 3, 2000. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 3, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 19, 2000.

**Linda A. Suydam,**

*Senior Associate Commissioner.*

[FR Doc. 00–16065 Filed 6–23–00; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[Document Identifier: HCFA–R–0282]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Request:* Reinstatement, without change, of a previously approved collection; *Title of Information Collection:* Medicare+Choice (M+C) Organization Appeals and Grievance Data Disclosure Requirements and Supporting Regulations in 42 CFR 422.64, 422.111, and 422.560–422.622; *HCFA Form Number:* HCFA–R–0282 (OMB approval #: 0938–0778); *Use:* These information collection pertains to the aggregate number and disposition of grievances and appeals by M+C organizations. Both the Balanced Budget Act (BBA) of 1997 and the Government Performance and Results Act (GPRA) of 1993 establish a need for HCFA to set and monitor performance standards in the area of appeals. The purpose is to hold M+C organizations accountable to regulators and consumers, as well as promote informed choice; *Frequency:* Semi-annually; *Affected Public:* Business or other for-profit; *Number of Respondents:* 268; *Total Annual*

*Responses:* 536; *Total Annual Burden Hours:* 1608.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 16, 2000.

**John P. Burke III,**

*Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.*

[FR Doc. 00–16080 Filed 6–23–00; 8:45 am]

**BILLING CODE 4120–03–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[Docket No. HCFA–10005]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Request:* New collection: *Title of Information Collection:* Ticket to work and Work Incentives: Medicaid Infrastructure Grants; *HCFA Form Number:* HCFA–1005 (OMB approval #: 0938–NEW); *Use:* Section 203 of the ticket to work and Work Incentives Act of 1999 provides for the establishment of a grants program for states that build infrastructures designed to support people with disabilities. State agencies will be applying for these grants; *Frequency:* Annually; *Affected Public:* State, local or tribal govt.; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Burden Hours:* 5,600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address; HCFA, Office of Information Services, Security and Standards Group, Division of NCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 15, 2000.

**John P. Burke III,**

*Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.*

[FR Doc. 00–16081 Filed 6–23–00; 8:45 am]

**BILLING CODE 4120–03–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Targeted Capacity Building Assistance for HIV/AIDS Primary Health Care Program Announcement

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice of availability of funds; request for letters of intent to apply.

**SUMMARY:** The Health Resources and Services Administration (HRSA) announces the availability of Fiscal Year (FY) 2000 funds for a cooperative agreement to provide targeted capacity building assistance (TCBA) to non-profit or public, community-based organizations (CBO) serving communities of color significantly impacted by existing and emerging HIV/AIDS epidemics.

Funds for the TCBA program are made available through the U.S. Department of Health and Human Services (DHHS) in collaboration with the Congressional Black Caucus (CBC) Initiative to reduce disparities in the rate of HIV/AIDS infections within communities of color. Programs funded through the DHHS/CBC Initiative are to be used to develop, improve and/or expand HIV/AIDS prevention, care and treatment services and research opportunities targeting communities of color, including African American, Latino, Asian American/Pacific Islander, Native American, Alaskan Natives and Native Hawaiians, significantly impacted by HIV/AIDS. The DHHS/CBC Initiative funds for the TCBA program were appropriated to the Ryan White CARE Act Title III for targeted technical assistance to minority community based health care and service providers with a history of service provision to communities of color.

The TCBA program will expand and improve the delivery of HIV/AIDS primary health care services by CBOs to communities of color living with HIV/AIDS. HRSA will provide $700,000 to support one national, regional or local organization representing communities of color, with a demonstrable record of providing TCBA and other technical assistance designed to strengthen HIV/AIDS systems of health care.

The purpose of this announcement is to request Letters of Intent to Apply and applications to this program. HRSA is requesting Letters of Intent to Apply to estimate the number of applications it will receive and thereby plan appropriately for the timely award of these funds. Letters of Intent to Apply are not required to submit an application to the program, nor are they binding.

*Program Purpose:* The purpose of the TCBA program is to increase the availability, accessibility and quality of HIV/AIDS primary health care services for underserved communities of color living with HIV/AIDS by developing or enhancing the HIV/AIDS primary care infrastructure within those communities. Targeted capacity building assistance is defined as a process that results in increasing the core competencies that are essential to

developing, implementing and sustaining effective programs within an organization. Provided TCBA will be designed to develop and/or enhance the core competencies needed by key staff within CBOs serving communities of color to enable the organization to expand, implement and sustain HIV/AIDS primary medical and health care programs. Core competencies to be developed include care and treatment protocols for HIV/AIDS primary health care, cultural and linguistic competency, program management, fiscal management, resource development, information systems management, governance, network development, *etc.* The TCBA also will enable CBOs to establish or participate in community-based provider networks delivering comprehensive HIV/AIDS primary health care services.

The TCBA program will tailor provided assistance to the specific needs of CBOs serving communities of color significantly impacted by current and emerging HIV/AIDS epidemics. The TCBA program will work in collaboration with CBO key staff to address their organization's and communities' needs and concerns within the context of the communities' social, economic and political realities.

Examples of TCBA include, but are not limited to, activities designed to improve or establish:

(1) Staff expertise with respect to the care and treatment needs of clients with HIV/AIDS;

(2) The ability to identify gaps in HIV/AIDS primary health care service delivery through formal needs assessment;

(3) Staff expertise in identifying and applying for funding;

(4) Processes, systems or procedures for core management functions (*e.g.,* administration, programming, fiscal planning, resource development, evaluation, *etc.*);

(5) The ability to identify and work effectively with other local HIV/AIDS service providers through referral networks; and

(6) Capacity to document, manage, use and report information that tracks client demographics, service utilization and outcomes.

*Required Program Activities:* Applicants must propose a plan for a systematic and cost effective process by which to implement the *required activities* listed below. Applicants are free to propose additional activities.

(1) Market the program and outreach to CBOs who could most benefit from the program.

(2) Develop a standardized tool for assessing the capacity building needs and goals of identified CBOs and work with each CBO to assess its needs.

(3) Develop and initiate a TCBA plan in response to identified needs.

(4) Evaluate the outcome and effectiveness of the TCBA provided.

(5) Facilitate linkages, networks and collaborations among different providers within a specific community.

(6) Document the components of an effective TCBA program for HIV/AIDS primary care delivery by CBOs serving communities of color.

(7) Coordinate activities with other capacity building programs and initiatives, including but not limited to, those funded by the DHHS/Congressional Black Caucus Initiative to Address Racial/Ethnic Disparities in HIV/AIDS.

(8) Work cooperatively with HRSA in the design and implementation of the program and the establishment of program priorities.

*Eligible Applicants:* Eligible applicants are public and non-profit, national, regional and local organizations which have served or are serving communities of color. The applicant must have a demonstrable record of providing capacity building assistance and other technical assistance to organizations in the development or improvement of HIV/AIDS primary health care programs within the past five years. The applicant must propose a consortium of organizations to include, the applicant and two or more contractor organizations that satisfy the above criteria. Anticipated documentation of a demonstrable record of providing capacity building assistance and other technical assistance includes letters of reference, letters of collaboration, letters of support from former or current clients, agency annual reports, service agreements, etc.

Successful applicants to this cooperative agreement will propose a consortium of organizations that collectively: (1) Possess complementary capabilities and expertise, (2) possess staff and board members who represent the diverse racial/ethnic demographics of those most severely impacted by HIV/AIDS, and (3) possess staff (or consultants) with direct experience implementing HIV/AIDS primary care programs. In addition, successful applicants will propose a consortium of organizations that collectively possess the capacity and capabilities to: (1) Provide TCBA and other technical assistance in various technical areas, (2) design multifaceted strategies to identify, deliver services to, and work effectively with CBOs serving communities of color, and (3) develop and deliver culturally and linguistically appropriate materials and instruction.

*Availability of Funds:* Up to $700,000 dollars are available in FY 2000 to award one cooperative agreement. It is expected that awards will be made on or before September 30, 2000. Funding will be made available for twelve months, with a project period of one year.

*Authorization:* Sections 2651–2654 of the Public Health Service Act

*Letters of Intent To Apply:* Letters of Intent to Apply to this program should include the following information for the applicant: (1) The organization name and contact information, (2) a brief organizational capabilities statement, and (3) a brief description of the program model to be proposed. Letters of Intent to Apply should be submitted to the HIV/AIDS Bureau, HRSA on or before July 10, 2000.

*Application Dates:* In order to be considered for competition, applications to this cooperative agreement program must be received at the HRSA Grants Application Center by close of business on Friday, August 25, 2000. Applications shall be considered as meeting the deadline if they are: (1) Received on or before the deadline, or (2) postmarked on or before the deadline date and received in time for orderly processing and submission to the review committee. Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service postmark. Private metered postmarks shall not be acceptable as proof of mailing. Applications received after the deadline will be returned to the applicant and not reviewed.

**ADDRESSES:** All Applications should be mailed or delivered to: HRSA Grants Application Center, 1815 N. Fort Myer Drive, Arlington, VA 22209, Attention: CFDA #93.145B. All Letters of Intent to Apply should be mailed or delivered to: Rene Sterling, HIV/AIDS Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–36, Rockville, MD 20857.

*Program Guidance & Application Kits:* The Targeted Capacity Building Assistance for HIV/AIDS Primary Health Care Program Guidance is available on the HIV/AIDS Bureau web site at the following Internet address: http://www.hrsa.gov/hab. The required federal grant application kit (PHS Form 5161–1) is available at the following Internet address: *http://forms.psc.gov/phsforms.htm.* For those applicants who are unable to access application materials electronically, hard copies must be obtained from the HRSA Grants Application Center. The telephone

number to the HRSA Grants Application Center is (877) 477–2123, the fax number is (877) 477–2345, and the e-mail address is hrsagac@hrsa.gov.

**FOR FURTHER INFORMATION CONTACT:** Additional technical information may be obtained from Rene Sterling, HIV/AIDS Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–36, Rockville, MD 20857. The telephone number is (301) 443–7778, the fax number is (301) 594–2835, and the e-mail address is Rsterling@hrsa.gov.

Dated: June 20, 2000.

**Claude Earl Fox,**

*Administrator.*

[FR Doc. 00–15988 Filed 6–23–00; 8:45 am]

**BILLING CODE 4160–15–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4601–N–01]**

## Notice of Opportunity To Apply To Serve on the U.S.-Israel Bi-National Commission on Housing and Community Development

**AGENCY:** Office of International Affairs under the Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice announces the opportunity for individuals to apply to serve on a U.S.-Israel Bi-National Commission on Housing and Community Development and announces the selection and eligibility requirements.

**DATES:** In order to receive full consideration, requests must be received by HUD no later than July 26, 2000.

**ADDRESSES:** Please send your requests for consideration to U.S.-Israel Bi-National Commission, U.S. Department of Housing and Urban Development, Office of International Affairs, Room 8118, 451 Seventh Street, SW, Washington, DC 20410. You may fax your request to (202) 708–5536 (this is not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:** John Geraghty, U.S. Department of Housing and Urban Development, Office of International Affairs, Room 8118, 451 Seventh Street, SW, Washington, DC 20410, (202) 708–0770 (telephone), (202) 708–5536 (fax) (these are not toll-free numbers). Hearing or speech-impaired persons may access the above telephone number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### Background

On June 19, 2000, President Clinton signed a Memorandum recognizing affordable housing and related community development as one of our most pressing domestic problems and seeking to enlarge the framework for policy research studies in this area and to strengthen relations with the State of Israel for the mutual benefit of the citizens of the United States and Israel. To that end, the President directed the Secretary of Housing and Urban Development to initiate discussions with the Government of Israel on issues of affordable housing and community development, with the aim of establishing a binational commission to structure a cooperative exchange program in this field.

Accordingly, the Department of Housing and Urban Development (HUD) is seeking individuals who would like to serve on the U.S.-Israel Bi-National Commission. Applicants may represent U.S. companies, associations or non-governmental organizations actively engaged in housing and community development. The Commission will be made up of U.S. and Israeli representatives from the housing, real estate, community development, finance, and construction sectors.

Members will serve on the Commission for a two-year term at the discretion of the appointing officials. Members are expected to participate fully in defining the agenda for the Commission and in implementing its work programs. It is expected that individuals chosen for the Commission will attend at least 75 percent of Commission meetings, which will be held in the United States and Israel. Members are fully responsible for travel, accommodation, and personal expenses associated with their participation in the Bi-National Commission. The members will serve in a representative capacity presenting the views and interests of the particular housing sector in which they operate.

### Selection and Eligibility Requirements

There are up to ten (10) available positions on the U.S. side of the Bi-National Commission. This notice is seeking individuals to fill these positions.

1. Applicants must:

—Be a U.S. citizen residing in the United States or a permanent United States resident;

—Be a Chief Executive Officer (CEO) or other senior management employee or representative of a U.S. company, association, or nonprofit organization involved in residential housing construction, housing finance, real estate, community/economic development, or urban planning sectors; and

—Not be a registered foreign agent under the Foreign Agents Registration Act of 1938.

2. In reviewing eligible applicants, HUD will consider:

—The applicant's expertise in construction building materials (especially concrete applications), innovative residential housing programs (including voucher programs), housing finance (including primary and secondary mortgage market programs and Real Estate Investment Trusts (REITs)), urban planning, community development, and urban revitalization strategies (such as HUD's Empowerment Zone/Enterprise Communities (EZ/EC) and HOPE VI programs);

—Particular experience or interest in Israel;

—Readiness to initiate and be responsible for the activities the Commission proposes to take on;

—An ability to contribute in light of overall Commission composition; and

—Diversity of company or organization size, type, location, and demographics.

3. To be considered for membership, please provide the following:

—Name and title of the individual requesting consideration;

—Name and address of the company or association that the individual will represent;

—The company or organization's specific expertise or service area;

—Size of the company or organization; and

—The company or organization's international expertise and major countries of operation.

4. Please also provide:

—A brief statement on why the individual should be considered for membership on the Commission;

—The individual's international expertise and major countries of operation;

—The particular segment of the housing industry the individual would represent;

—A personal resume;

—A statement that the applicant is not a registered foreign agent under the Foreign Agents Registration Act; and

—A brief statement of experience or interest in Israel.

5. Additional members and replacements:

—The number of Commission positions may be expanded, should the need

arise. Additional members or replacements for any individual selected to serve on the Commission, may only be made by HUD after a review by HUD of the qualifications of the individuals.

Dated: June 21, 2000.

**Susan Wachter,**

*Assistant Secretary for Policy Development and Research.*

[FR Doc. 00–16164 Filed 6–22–00; 12:57 pm]

**BILLING CODE 4210–62–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### Review of Interior Board of Indian Appeals Decisions

**AGENCY:** Office of the Secretary, Department of the Interior.

**ACTION:** Notice.

**SUMMARY:** The Secretary of the Interior has decided to review *Hopi Indian Tribe* v. *Director, Office of Trust and Economic Development, Bureau of Indian Affairs,* 22 IBIA 10 (1992), and *Hopi Tribe* v. *Director, Office of Trust Responsibilities, Bureau of Indian Affairs,* 24 IBIA 65 (1993). These decisions concern the method for reimbursing Indian Tribes for legal fees from the United States Treasury. To allow for full airing of all issues in this review, we are inviting interested parties in addition to the three Tribes most directly affected by these decisions to submit briefs on the issues set forth in the **SUPPLEMENTARY INFORMATION** section according to the schedule and instructions in that section of this Notice.

**DATES:** See the **SUPPLEMENTARY INFORMATION** section for the brief submission schedule.

**ADDRESSES:** Three copies of all briefs and motions should be sent to the Office of the Solicitor, U. S. Department of the Interior, Attn: Stephen Simpson, 1849 C Street, NW, MS 6352–MIB, Washington, DC 20240. You should also provide copies of all documents filed in this case to the participants listed in the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Stephen Simpson, 202–219–1659.

**SUPPLEMENTARY INFORMATION:** The Secretary of the Interior has decided to review two decisions of the Interior Board of Indian Appeals (IBIA), *Hopi Indian Tribe* v. *Director, Office of Trust and Economic Development, Bureau of Indian Affairs,* 22 IBIA 10 (1992) (Hopi I), and *Hopi Tribe* v. *Director, Office of Trust Responsibilities, Bureau of Indian Affairs,* 24 IBIA 65 (1993) (Hopi II). Both Hopi I and Hopi II concern the payment of Tribal legal fees for litigation under the Navajo-Hopi Settlement Act from the United States Treasury. Under the Settlement Act (25 U.S.C. 640d–7(e)), the Secretary ''is authorized to pay any or all appropriate legal fees, court costs, and other related expenses arising out of, or in connection with, the commencing of, or defending against, any action brought by the Navajo, San Juan Southern Paiute, or Hopi Tribe'' concerning boundaries of a reservation established under the Settlement Act.

In 1989, the Hopi Tribe submitted a request to the Bureau of Indian Affairs for reimbursement of legal fees under this provision. The Director of the Bureau's Office of Trust and Economic Development requested that the Tribe submit further information under 25 CFR 89.40–89.43, the general regulations for reimbursement of legal fees. He noted that any requests for legal fees by the Tribe, unless mandated by Congress, should be applied for using the same process as other Tribes. He stated that 25 U.S.C. 640d–7(e) is discretionary and puts the Hopi Tribe in the same position as other Indian Tribes competing for reimbursement from the legal fees account in the Treasury. In Hopi I, the IBIA vacated the Director's decision and remanded it for further consideration because he had not explained how he reached that conclusion, or why the prior administrative practice of not requiring such applications was incorrect. On remand, the Director of the Office of Trust Responsibilities (the same office with a different name) ruled again that the Hopi Tribe had to file an application under 25 CFR 89.40–89.43 to provide a rational basis for the exercise of the BIA's discretion under 25 U.S.C. 640d–7(e). The Tribe again appealed, and, in Hopi II, the IBIA found that 25 CFR 89.40–89.43 applies when a Tribe determines to undertake litigation to protect its rights. The IBIA found, that in the case of the Hopi Tribe, the determination that the reservation litigation was necessary was made by Congress, not the Tribe. The IBIA therefore ruled that the BIA was required to reimburse all appropriate legal fees for the three Tribes and could not subject them to the same process and competition for funds as other Tribes.

Recognizing the importance of the IBIA decisions to the disbursement of federal funds for Tribal legal fees, the Secretary has decided to review the IBIA decisions in Hopi I and Hopi II under regulations which provide that:

The authority reserved to the Secretary includes, but is not limited to:

* * * * *

(2) The authority to review any decision of any employee or employees of the Department, including any administrative law judge or board of the Office [of Hearings and Appeals], or to direct any such employee or employees to reconsider a decision. 43 CFR 4.5 (Bracketed material added.)

To assist him in rendering a decision on this matter, the Secretary will accept briefs from the BIA, the three Tribes named in the Settlement Act (the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe), and other interested parties. Briefs should only address the Department's interpretation of 25 U.S.C. 640d–7(e) as evidenced in the IBIA decisions. The Secretary will not re-adjudicate the Hopi Tribe's appeal of the decisions. Further, the Secretary's review will not affect the pending settlement between the Hopi Tribe and the BIA of 1990 fees at issue in the decisions. Briefs must be submitted according to the following schedule:

1. Briefs opposed to the Board's decisions must be received by July 14, 2000;

2. Response briefs supporting the Board's decisions must be received by August 18, 2000; and

3. Reply briefs opposing the Board's decisions must be received by September 8, 2000.

Briefs are not to exceed fifty pages (except the reply briefs, which are not to exceed twenty-five pages), double spaced, with all margins not less than one inch. No oral argument will be heard on these issues.

Three copies of all motions and briefs being submitted are to be sent to the following address: Office of the Solicitor, U. S. Department of the Interior, Attn: Stephen Simpson, 1849 C Street, N.W., MS 6352–MIB, Washington, D. C. 20240.

Please also provide copies of all documents filed in this case to the participants listed below.

The Honorable Wayne Taylor, Jr., Chairman, Hopi Tribal Council, P.O. Box 123, Kykotsmovi, AZ 86039

Terrance Virden, Director, Office of Trust Responsibility, Bureau of Indian Affairs, 1849 C Street, N.W., MS 4513, Washington, DC 20240.

The Honorable Kelsey A. Begaye, President, Navajo Nation, P.O. Box 9000, Window Rock, AZ 86515.

The Honorable Johnny Lehi, President, San Juan Southern Paiute Council, P.O. Box 2656, Tuba City, AZ 86045

BIA, as a party in this matter, will be represented by the Division of Indian

Affairs of the Office of the Solicitor. The Immediate Office of the Solicitor will provide legal advice to the Secretary. Therefore, ex parte communication on this matter with the Office of the Secretary or the Immediate Office of the Solicitor is prohibited. Any communication with the Office of the Secretary or the attorneys in the Immediate Office of the Solicitor regarding this review must be in writing and a copy of the communication must be served on all participants in the review as noted above.

Dated: June 19, 2000.

**John D. Leshy,**

*Solicitor.*

[FR Doc. 00–16093 Filed 6–23–00; 8:45 am]

**BILLING CODE 4310–10–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Endangered Species Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications.

**SUMMARY:** The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10 (a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

*Permit No. TE–028876*

*Applicant:* The Nature Conservancy, Portland, Oregon.

The applicant requests a permit to take (capture, handle, and release) the Lost River sucker (*Deltistes luxatus*) and shortnose sucker (Chasmistes brevirostris) in conjunction with restoration actions in the Williamson River and Agency Lake, Oregon, for the purpose of enhancing their survival.

*Permit No. TE–026227*

*Applicant:* Joseph Silveira, Willows, California.

The applicant requests a permit to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), San Diego fairy shrimp (*Brachinecta sandiegonensis*), and the Riverside fairy shrimp (*Streptocephalus woottoni*), and remove and reduce to possession specimens of *Cordylanthus palmatus, Cordylanthus mollis* ssp. *mollis, Orcuttia californica, Orcuttia pilosa, Orcuttia viscida, Tuctoria greenei,* and *Tuctoria mucronata* in conjunction with surveys and the collection of voucher specimens throughout each species' range in California for the purpose of enhancing their survival.

*Permit No. TE–002716*

*Applicant:* Kenneth J. Halama, Riverside, California.

The applicant requests a permit to take (capture and handle) the arroyo southwestern toad (*Bufo microscaphus californicus*) in conjunction with conducting natural history research throughout the species' range for the purpose of enhancing its survival.

*Permit No. TE–839213*

*Applicant:* David Philip Muth, Jr., Martinez, California.

The permittee requests an amendment to take (*harass by survey, collect and sacrifice*) the San Diego fairy shrimp (*Brachinecta sandiegonensis*) and the Riverside fairy shrimp (*Streptocephalus woottoni*) in conjunction with surveys throughout each species' range in California for the purpose of enhancing their survival.

*Permit No. TE–839480*

*Applicant:* Richard Zembal, Laguna Hills, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (monitor nests, capture, mark, band, and release) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with scientific research throughout each species range in California for the purpose of enhancing their survival.

*Permit No. TE–028810*

*Applicant:* Althouse and Meade, Inc., Paso Robles, California.

The applicant requests a permit to take (capture and handle) the California tiger salamander (*Ambystoma californiense*) in conjunction with presence or absence surveys in Santa Barbara County, California for the purpose of enhancing its survival.

**DATES:** Written comments on these permit applications must be received on or before July 26, 2000.

**ADDRESSES:** Written data or comments should be submitted to the Chief—Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

**FOR FURTHER INFORMATION CONTACT:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: June 19, 2000.

**Don Weathers,**

*Acting Regional Director, Region 1, Portland, Oregon.*

[FR Doc. 00–16033 Filed 6–23–00; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Availability of a ''Lost Pines'' Environmental Assessment/Habitat Conservation Plan for Assigned Permit Number TE–025997–0. For Issuance of an Endangered Species Act Section 10(a)(1)(B) Permit for the Incidental Take of the Endangered Houston Toad (*Bufo houstonensis*). During the Construction and Occupation of Single Family Residences (each on home-sites of 0.5 acres or less) in 45 subdivisions in Bastrop County, TX

**SUMMARY:** The U.S. Fish and Wildlife Service Office has prepared an Environmental Assessment/Habitat Conservation Plan for assigned permit number TE–025997–0 for issuance of an Endangered Species Act Section 10(a)(1)(B) permit for the incidental take of the Endangered Houston Toad. The Service proposes issuing endangered species permits to individual lot owners under an EA/HCP, where each permit would authorize the incidental take of the endangered Houston toad, directly or indirectly, from the construction and occupation of a single-family residence on an undeveloped lot in the 45 subdivisions covered under this EA/HCP. This alternative was selected as the Preferred Alternative as it will allow for responsible development of the lots while minimizing and offsetting impacts to the Houston toad by providing for on-site and off-site conservation measures that will be used to promote the long-term survival of the species. It is also considered to provide the most simplified, expeditious, and effective

process by which landowners can comply with the provisions of the Endangered Species Act in a more efficient manner. The Service has divided the 45 subdivisions into two categories, those in low/marginal quality Houston toad habitat, and those in medium quality Houston toad habitat. The EA/HCP requires the same avoidance, minimization, and mitigation efforts from every lot owner, within their respective category. This negates the need and cost in both time and money to prepare individual HCPs and go through separate public review processes. Since this EA/HCP will have already gone out for public review and comment (through this Notice in the **Federal Register**), and been finalized, it would cover 8,476 undeveloped lots, covering a maximum of 4,238 acres of sub-optimal Houston toad habitat, as noted in the EA/HCP in the 45 listed subdivisions, and endangered species permits could be issued in a matter of days as opposed to months under the current permitting process.

The EA/HCP has been assigned permit number TE–025997–0. The requested permit issuance, which will be for a period of 5 years, would authorize the incidental take of the endangered Houston toad (*Bufo houstonensis*). The proposed take would occur as a result of the possible construction and occupation on 8,476 remaining undeveloped lots, covering a maximum of 4,238 acres of sub-optimal Houston toad habitat, in 45 subdivisions in Bastrop County, Texas.

A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

**DATES:** Written comments on the application should be received on or before July 26, 2000.

**ADDRESSES:** Persons wishing to review the EA/HCP may obtain a copy by contacting: Austin Office of the U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, or by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the EA/HCP should be submitted to the Field Supervisor, Austin Field Office of the U.S. Fish and Wildlife Service, at the above address. Please refer to permit number TE–025997–0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Contact the Austin Office of the U.S. Fish and Wildlife Service at the above address.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

### Applicant

This action will permanently disturb a maximum of 0.5 acres of Houston toad habitat within each eligible lot and result in indirect impacts within the subdivision. Each applicant will compensate for this incidental take of the Houston toad by providing mitigation funds to the National Fish and Wildlife Foundation for the specific purpose of land acquisition, protection, and management within Houston toad habitat, as identified by the Service.

**Bryan Arroyo,**

*Acting Regional Director, Region 2, Albuquerque, New Mexico.*

[FR Doc. 00–16032 Filed 6–23–00; 8:45 am]

**BILLING CODE 4510–55–U**

## DEPARTMENT OF THE INTERIOR

### Geological Survey

### Technology Transfer Act of 1986; Cooperative Research and Development Agreement With Rio Algom Exploration

**AGENCY:** Geological Survey, Interior.

**ACTION:** Notice of proposed cooperative research and development agreement (CRADA) negotiations.

**SUMMARY:** The U.S. Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Rio Algom Exploration to conduct aerial surveys in Alaska.

**INQUIRIES:** If any other parties are interested in studying other areas with the USGS, please contact: Fredric Wilson, USGS-Alaska Section, 4200 University Dr., Anchorage, AK 99508–4667.

**SUPPLEMENTARY INFORMATION:** This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: May 23, 2000.

**Linda C. Gundersen,**

*Associate Chief Geologist for Program Operations.*

[FR Doc. 00–15995 Filed 6–23–00; 8:45 am]

**BILLING CODE 4310–Y7–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[AZ–040–00–1040–AE]**

### Gila Box Riparian National Conservation Area Advisory Committee; Meeting Notice

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Gila Box Riparian National Conservation Area Advisory Committee Meeting.

**SUMMARY:** The purpose of this notice is to announce the next meeting of the Gila Box Riparian National Conservation Area Advisory Committee Meeting. The purpose of the Advisory Committee is to provide informed advice to the Safford Field Office Manager on Management of public lands in the Gila Box Riparian National Conservation Area (RNCA). The committee meets as needed, generally between two and four times a year.

The meeting will take place at the Bureau of Land Management, Safford Field Office on September 15, 2000 commencing at 9 a.m. and ending at 4 p.m. The meeting's agenda will consist of updates on livestock management, transportation system, public affairs, monitoring, and Lee Trail Headquarters relocation within the Gila Box RNCA. In addition, the meeting will include a update on the National Landscape Conservation System as it relates to the Gila Box RNCA. A public comment period will be provided from 9:45 a.m. to 10 a.m. for the public to address the committee on management of the Gila Box RNCA.

**DATES:** Meeting will be held on September 15, 2000 starting at 9 a.m.

**FOR FURTHER INFORMATION CONTACT:** Jon Collins, Gila Box NCA Project Coordinator, Safford Field Office, 711 14th Avenue, Safford, Arizona 85546; telephone number (520) 384–4400.

Dated: June 15, 2000.

**William T. Civish,**

*Field Office Manager.*

[FR Doc. 00–15996 Filed 6–15–00; 8:45 am]

**BILLING CODE 4310–32–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[NV–030–00–1020–24]**

### Sierra Front/Northwestern Great Basin Resource Advisory Council; Notice of Meeting Location and Time

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of meeting location and time for the Sierra Front/Northwestern Great Basin Resource Advisory Council (Nevada).

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Sierra Front/ Northwestern Great Basin Resource Advisory Council (RAC), Nevada, will be held as indicated below. Topics for discussion will include issues related to Clean Water Action Plans/standards for water quality; discussion of proposed pilot projects for the Great Basin Restoration Initiative for Carson City & Winnemucca Field Offices; voluntary acquisition of water rights in the Walker River Basin; review of the preliminary final draft of the Black Rock Management Plan (if completed); presentation of the proposed alternative for the Washoe County Open Space Plan; review of the BLM National Off-Highway Vehicle Strategy; and other topics the council may raise.

All meetings are open to the public. The public may present written and/or oral comments to the council. The public comment period for the council meeting will be at 2 p.m. on Thursday, July 27th. The agenda will be available on the internet by July 14, 2000, at *www.nv.blm.gov/rac;* hard copies can also be mailed or sent via FAX. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations should contact Mark Struble, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, telephone (775) 885–6107 no later than July 21, 2000.

**DATE & TIME:** The RAC will meet on Thursday, July 27, 2000, from 9 a.m. to 5 p.m. and 7 p.m. to 9 p.m., and Friday, July 28, 2000, from 8 a.m. to 4 p.m., in the Catholic Center/ Religious Education Social Hall, Church of the Holy Family, 38 North West Street at Virginia Street, Yerington, Nevada. Public comment on individual topics will be received at the discretion of the council chairperson, as meeting moderator, with a general public comment period on Thursday, July 27, 2000, at 2 p.m. An evening public forum will also be held on Thursday, July 27th starting at 7 p.m. for the RAC to dialogue with members of the public on the BLM Walker River Basin EIS Project.

**FOR FURTHER INFORMATION CONTACT:** Mark Struble, Public Affairs Officer, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701. Telephone (775) 885–6107.

Dated: June 12, 2000.

**John O. Singlaub,**

*Manager, Carson City Field Office.*

[FR Doc. 00–15997 Filed 6–23–00; 8:45 am]

**BILLING CODE 4310–HC–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[WO–260–09–1060–00–24 1A]**

### Wild Horse and Burro Advisory Board Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Announcement of meeting.

**SUMMARY:** The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

**DATES:** The advisory board will meet Tuesday, July 11, 2000 from 8 a.m. to 5 p.m. local time, and on Wednesday, July 12, from 8 a.m. to 12 noon local time.

**ADDRESSES:** The Advisory Board will meet at the Nevada Bureau of Land Management State Office, 1340 Financial Boulevard, Reno, Nevada.

Written comments pertaining to the Advisory Board meeting should be sent to: Bureau of Land Management, National Wild Horse and Burro Program, WO–260, Attention Ramona Delorme, 1340 Financial Boulevard, Reno, Nevada, 89502–7147. Submit written comments pertaining to the Advisory Board meeting no later than close of business July 19, 2000. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

**FOR FURTHER INFORMATION CONTACT:** Janet Nordin, Wild Horse and Burro Public Outreach Specialist, (775) 861–6583. Individuals who use a telecommunications device for the deaf (TDD) may reach Ms. Nordin at any time by calling the Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**I. Public Meeting**

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

*Tuesday, July 11, 2000*

Welcome
Introduction of board/announce chairperson/vice chair
Logistics (per diem, *etc.*)
Briefings
- BLM
- Culp Report
- Pierson Report
- Advisory Board recommendations
- Immuno/Contraception
- Adoption Standardization
- Handbooks/Manuels

FS Update on cooperative agreement for handling horses
BLM Management Strategy (*i.e.* funding level, implementation strategy, contracts, marketing, *etc.*)
Public Comment

*Wednesday, July 12, 2000*

Animal Health
- APHIS MOU
- Granden Facility Review
- Herd Health
- Immuno/Contraception
- Facility Managers' meeting
- Emergency gathers
- Closeout/Recommendations

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal advisory committee management regulations (41 CFR 101–6.1015(b)), require BLM to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

**II. Public Comment Procedures**

Members of the public may make oral statements to the Advisory Board on July 11, 2000 at the appropriate point in the agenda. This opportunity is anticipated to occur at 4 p.m. local time.

Persons wishing to make statements should register with the BLM by noon on July 11, 2000, at the meeting location. Depending on the number of speakers, the Advisory Board may limit the length of presentations. At previous meetings, presentations have been limited to three minutes in length. Speakers should address the specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, speakers should submit two copies of their written comments where feasible. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, the BLM will make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want the BLM to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. BLM will honor your request to the extent allowed by law. BLM will release all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, in their entirety, including names and addresses (or e-mail addresses).

*Electronic Access and Filing Address*

Speakers may transmit comments electronically via the Internet to: *Janet_Nordin@blm.gov.* Please include the identifier ''WH&B'' in the subject of your message and your name and address in the body of your message.

Dated: June 21, 2000.

**Henri R. Bisson,**

*Assistant Director, Renewable Resources and Planning.*

[FR Doc. 00–16100 Filed 6–23–00; 8:45 am]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Draft Legislative Environmental Impact Statement, Timbisha Shoshone Homeland In and Around Death Valley National Park; Notice of Extension of Public Comment Period

**SUMMARY:** Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190 as amended), the National Park Service, Department of the Interior, has prepared a Draft Legislative Environmental Impact Statement (LEIS) assessing potential impacts of Congress establishing a proposed Timbisha Shoshone Tribal Homeland in and around Death Valley National Park, California. The Draft LEIS identifies parcels of land suitable for the Timbisha Shoshone Indian Tribe to establish a permanent homeland. In deference to public interest expressed to date from local governmental agencies, organizations, and other interested parties, the original 60-day public comment period has been extended an additional 10 calendar days from the original July 22, 2000 deadline.

**SUPPLEMENTARY INFORMATION:** Interested individuals, organizations, and agencies are encouraged to provide written comments—to be considered any response must now be postmarked no later than August 1, 2000.

All responses should be addressed to the Superintendent, Death Valley National Park, P.O. Box 579, Death Valley, California 92328. If individuals submitting comments request that their name or/and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. As always: NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

To obtain a copy of the LEIS please contact Bettie Blake at (760) 786–3243. All other questions can be directed to Joan DeGraff at (760) 255–8830.

Dated: June 16, 2000.

**John J. Reynolds,**

*Regional Director, Pacific West Region.*

[FR Doc. 00–16094 Filed 6–23–00; 8:45 am]

**BILLING CODE 4310–70–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 16, 2000. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by July 11, 2000.

**Carol D. Shull,**

*Keeper of the National Register.*

**ARKANSAS**

*Pulaski County*

Compton—Wood House, 1305 Spring St., Little Rock, 00000781

**COLORADO**

*El Paso County*

Calhan Paint Mines Archeological District, Approx. 0.5 mi. SE of jct. S. Calhan Rd. and Paint Mine Rd., Calhan, 00000783

*Jefferson County*

Van Voorhis House, 7803 Ralston Rd., Arvada, 00000784

*Lake County*

Derry Mining Site Camp, W of US 24, Leadville, 00000782

**FLORIDA**

*Alachua County*

City of Alachua Downtown Historic District, Roughly bounded by NW 150th Ave., NW 145th Terrace, NW 143rd Place and NW 138th Terrace, Alachua, 00000787

*Hillsborough County*

Dickman, A.P., House, 120 Dickman Dr., SE, Ruskin, 00000786

*Palm Beach County*

Flamingo Park Historic Residential District, Roughly bounded by Park Place, Parker Ave., Beleveder Rd., and Florida Ave., West Palm Beach, 00000785

**GEORGIA**

*Troup County*

East Main Street—Johnson Street Historic District, Centered on East Main and Johnson Sts., Hogansville, 00000788

**IDAHO**

*Idaho County*

Gold Point Mill, Forest Service Rd. 222, Elk City, 00000792

**KANSAS**

*Dickinson County*

Litts—Dieter House, 702 North Cedar, Abilene, 00000789
Mead—Rogers House, 813 NW 3rd St., Abilene, 00000790

*Ford County*

Atchison, Topeka and Santa Fe Railway Depot, E. Wyatt Earp Blvd., Dodge City, 00000791

**MASSACHUSETTS**

*Hampshire County*

Westside Historic District, Baker and Snell Sts., Northampton Rd., and Hazel Ave., Amherst, 00000793

**MISSOURI**

*St. Louis County*

Block Unit #1 Historic District, 4100–4191 Enright Ave., St. Louis, 00000794

**NEW JERSEY**

*Bergen County*

Hess, Harold, Lustron House, (Lustrons in New Jersey MPS) 421 Durie Ave., Closter Borough, 00000796
Wittmer, William A., Lustron House, (Lustrons in New Jersey MPS) 19 Dubois Ave., Alpine Borough, 00000797

*Camden County*

Sears, Roebuck and Company Retail Department Store—Camden, 1300 Admiral Wilson Blvd., Camden City, 00000795

**OHIO**

*Butler County*

Dixon—Globe Opera House—Robinson-Schwenn Building, 221 High St., Hamilton, 00000799

*Cuyahoga County*

Olmsted Falls Historic District, Roughly bounded by Bagley Rd., Brookside Dr., Rocky River, Nobottom Rd., Olmsted Falls, 00000798

*Stark County*

Elson—Magnolia Flour Mill, 261 N. Main St., Magnolia, 00000800

**OREGON**

*Hood River County*

Colby, Ernest S. and Clara C., House, 1219 Columbia Ave., Hood River, 00000804

*Jackson County*

Eden Valley Orchard, 2488 Voorhies Rd,, Medford, 00000802

*Multnomah County*

Oregon State Bank Building, (Hollywood's Historic Commercial District in Portland, Oregon MPS) 4200 NE Sandy Blvd., Portland, 00000801

*Wallowa County*

Wallowa County Courthouse, 101 S. River St., Enterprise, 00000805

*Yamhill County*

Parrish, William Albert and Anna May Bristow, Farmstead, Address Restricted, Newberg, 00000803

**TENNESSEE**

*Humphreys County*

Fort Hill and Butterfield, Archibald D., House, (Civil War Historic and Historic Archeological Resources in Tennessee MPS), 201 Fort Hill Dr., Waverly, 00000806

*Johnson County*

Wright, A.J., Farm, 297 A.J. Wright Rd., Shady Valley, 00000808

*Maury County*

St. Mark United Primitive Baptist Church, (Rural African-American Churches in Tennessee MPS) Maury Hill St., Spring Hill, 00000811

*Shelby County*

First Colored Baptist Church, 682 S. Lauderdale St., Memphis, 00000807

*Sullivan County*

Pierce Chapel AME Church Cemetery, (Rural African-American Churches in Tennessee MPS) Seaver Rd. at Horse Creek Rd., Kingsport, 00000809

**WISCONSIN**

*Oconto County*

Krause, Daniel E., Stone Barn, NE corner of Cty. Trunk Hwy S and Schwartz Rd., Chase, 00000810

A request for REMOVAL has been made for the following resource:

**OHIO**

*Portage County*

Kent Jail, 124 W. Day St. Kent, 78002173

[FR Doc. 00–16007 Filed 6–23–00; 8:45 am]

**BILLING CODE 4310–70–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 731–TA–413–415 and 419 (Review)]**

## Certain Industrial Belts From Germany, Italy, Japan, and Singapore

**AGENCY:** United States International Trade Commission.

**ACTION:** Cancellation of the hearing of full five-year reviews concerning the antidumping duty orders on certain industrial belts from Germany, Italy, Japan, and Singapore.

**EFFECTIVE DATE:** June 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Joanna Bonarriva (202–708–4083) Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

**SUPPLEMENTARY INFORMATION:**

### Background

On February 10, 2000 (65 FR 6627), the Commission published a notice in the **Federal Register** scheduling full five-year reviews concerning the antidumping duty orders on certain industrial belts from Germany, Italy, Japan, and Singapore. The schedule provided for a public hearing on June 27, 2000. Requests to appear at the hearing were filed with the Commission on behalf of Mitsuboshi Belting Corp. and on behalf of Bando Chemical Industries, Ltd. and Bando American, Inc. Subsequently, each of the parties requesting to appear at the hearing withdrew its request. Since there are no current requests by interested parties to appear at a public hearing, the Commission determined to cancel the public hearing on certain industrial belts from Germany, Italy, Japan, and Singapore. The Commission unanimously determined that no earlier announcement of this cancellation was possible.

For further information concerning these reviews, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to sections 201.35 and 207.62 of the Commission's rules.

Dated: June 21, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–16202 Filed 6–26–00; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 731–TA–96 and 439–445 (Review)]**

### Industrial Nitrocellulose From Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia

**AGENCY:** International Trade Commission.

**ACTION:** Revised schedule for the subject reviews.

**EFFECTIVE DATE:** June 16, 2000.

**FOR FURTHER INFORMATION CONTACT:** D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *(http://www.usitc.gov).*

**SUPPLEMENTARY INFORMATION:** Effective October 15, 1999, the Commission established a schedule for the conduct of the subject reviews (64 FR 57483, October 25, 1999). Effective February 1, 2000, the Commission revised its schedule for the reviews (65 FR 5889, February 7, 2000), pursuant to a request for a two-month extension by counsel for Wolff Walsrode AG, a German producer, and Bayer Corporation, a German importer. In order to carefully evaluate recent important developments in the industrial nitrocellulose industry, the Commission has further determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B), and is hereby revising its schedule.

The Commission's new schedule for the reviews is as follows: the Commission will make its final release of information on August 2, 2000; and final party comments are due on August 8, 2000.

For further information concerning these reviews, see the Commission's notices cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: June 19, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–16095 Filed 6–23–00; 8:45 am]

**BILLING CODE 7020–02–M**

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 731–TA–847 and 850 (Final)]**

### Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Japan and South Africa

#### Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Japan and South Africa of certain small diameter seamless carbon and alloy steel standard, line, and pressure pipe (''small diameter pipe''), provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.30, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).[2] The Commission made negative determinations concerning critical circumstances. The Commission also determines that an industry in the United States is materially injured by reason of imports from Japan of certain large diameter seamless carbon and alloy steel standard, line, and pressure pipe (''large diameter pipe''), provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at LTFV.[3]

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioners Jennifer A. Hillman and Thelma J. Askey dissenting with respect to small diameter pipe of alloy steel. They determine that an industry in the United States producing such pipe is neither materially injured nor threatened with material injury by reason of imports of such pipe from Japan and South Africa sold at LTFV.

[3] Commissioner Thelma J. Askey dissenting with respect to large diameter pipe of alloy steel. She determines that an industry in the United States producing such pipe is neither materially injured nor threatened with material injury by reason of imports of such pipe from Japan sold at LTFV.

#### Background

The Commission instituted these investigations effective June 30, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by counsel for Koppel Steel Corp., Beaver Falls, PA; Sharon Tube Co., Sharon, PA; U.S. Steel Group, Fairfield, AL; USS/Kobe Steel Co., Lorain, OH; and Vision Metals' Gulf States Tube Div., Rosenberg, TX. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by the Department of Commerce that imports of small diameter pipe from Japan and South Africa and large diameter pipe from Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 25, 2000 (65 FR 10107). The hearing was held in Washington, DC, on May 4, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 16, 2000. The views of the Commission are contained in USITC Publication 3311 (June 2000), entitled Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Japan and South Africa: Investigations Nos. 731–TA–847 and 850 (Final).

Issued: June 20, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–16096 Filed 6–23–00; 8:45 am]

**BILLING CODE 7020–02–U**

## INTERNATIONAL TRADE COMMISSION

**[Investigation 332–418]**

### Economic Impact on the United States of a U.S.-Jordan Free Trade Agreement

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation and Notice of opportunity to submit comments.

**EFFECTIVE DATE:** June 19, 2000.

**SUMMARY:** Following receipt of a request on June 14, 2000, from the United States Trade Representative (USTR), pursuant to authority under section 332(g) of the Tariff Act of 1930, the Commission instituted investigation No. 332–418, Economic Impact on the United States of a U.S.-Jordan Free Trade Agreement.

**FOR FURTHER INFORMATION CONTACT:** Victoria Chomo (202–205–3125), Office of Economics, or William Gearhart of the Office of the General Counsel (202–205–3091) for information on the legal aspects of this investigation. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

**Background**

The USTR requested that the Commission's report include the following:

- An overview of the Jordanian economy;
- Data on Jordan's patterns of trade with the United States and its other major trade partners;
- A description of the tariff and investment relationship between the United States and Jordan; and
- An analysis of any sector where there are significant economic impacts from a U.S.-Jordan FTA.

The Commission plans to submit its report, Economic Impact on the United States of a U.S.-Jordan Free Trade Agreement, July 31, 2000. USTR indicated that the report will be classified as confidential.

**Written Submissions**

The Commission does not plan to hold a public hearing in connection with this investigation. However, interested persons are invited to submit written statements concerning matters to be addressed in the report. Commercial or financial information that a person desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. The Commission's Rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). All submissions requesting confidential treatment must conform with the requirements of Section 201.6 of the Commission's Rules (19 CFR 201.6). All written statements, except for confidential business information will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration, written statements relating to the Commission's report should be submitted at the earliest possible date and should be received not later than July 7, 2000. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW, Washington D.C. 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: June 20, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–16097 Filed 6–23–00; 8:45 am]

**BILLING CODE 7020–02–U**

## INTERNATIONAL TRADE COMMISSION

### Notice of Appointment of Individuals To Serve as Members of Performance Review Boards

**AGENCY:** United States International Trade Commission.

**ACTION:** Appointment of individuals to serve as members of Performance Review Board.

**EFFECTIVE:** June 17, 2000.

**FOR FURTHER INFORMATION CONTACT:** Micheal J. Hillier, Director of Personnel, U.S. International Trade Commission, (202) 205–2651.

**SUPPLEMENTARY INFORMATION:** The Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Chairman of PRB—Vice-Chairman Deanna Tanner Okun
Member—Commissioner Lynn M. Bragg
Member—Commissioner Marcia E. Miller
Member—Commissioner Jennifer A. Hillman
Member—Commissioner Thelma J. Askey
Member—Robert A. Rogowsky
Member—Lyn M. Schlitt
Member—Stephen A. McLaughlin
Member—Eugene A. Rosengarden
Member—Lynn Featherstone
Member—Vern Simpson
Member—Lynn I. Levine
Member—Robert B. Koopman

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: June 20, 2000.

By order of the Chairman.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–16098 Filed 6–23–00; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advance Lead-Acid Battery Consortium (''ALABC'')

Notice is hereby given that, on January 3, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Lead-acid Battery Consortium (''ALABC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Amerace Microporous Products, LP, Piney Flats, TN; Borregaard Lignotech, Sarpsborg, NORWAY; Electric Transportation Applications, Phoenix, AZ; Furukawa Battery Co., Ltd., Iwaki-City, Fukushima-pref. JAPAN; Hangzhou Narada Battery Co., Ltd., Hangzhou, Zhejiang, PEOPLES REPUBLIC OF CHINA; Voltmaster Co., Inc., Corydon, IA; and Westvaco Corporation, Charleston, SC have been added as parties to this venture. Also, Entertec Mexico, Monterrey, N.L. MEXICO; GNB Technologies, Inc., Lombard, IL; ITRI, Uxbridge, Middlesex, UNITED KINGDOM; Japan Storage Battery, Kyoto, JAPAN; Mitsui Mining & Smelting Co., Ltd. Tokyo, JAPAN; Norvic Traction, Inc., Mississuga, Ontario, CANADA; Technical Fibre Products, Kendall, Cumbria, UNITED KINGDOM; Toho Zinc Co., Ltd., Tokyo, JAPAN; and Virginia Power, Richmond,

VA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Lead-Acid Battery Consortium (''ALABC'') intends to file additional written notification disclosing all changes in membership.

On June 15, 1992, Advanced Lead-Acid Battery Consortium (''ALABC'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 29, 1992 (57 FR 33522).

The last notification was filed with the Department on October 8, 1999. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 00–16000 Filed 6–23–00; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Technology Institute (''ATI''): National Shipbuilding Research Program (''NSRP'')

Notice is hereby given that, on April 11, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Technology Institute has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the project status of the National Shipbuilding Research Program (''NSRP''). The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the general area of planned activity of the NSRP is to establish collaborative research efforts of limited duration to manage and focus national shipbuilding research and development funding on technologies that will reduce the cost of warships to the Navy, and establish U.S. international shipbuilding competitiveness. NSRP also provides a collaborative forum to improve business and acquisition processes.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Technology Institute: National Shipbuilding Research Program intends to file additional written notification disclosing all changes in membership.

On March 13, 1998, Advanced Technology Institute: National Shipbuilding Research Program filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4708).

The last notification was filed with the Department on January 5, 2000. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 00–15998 Filed 6–23–00; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on October 12, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The ATM Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cerent Corporation, Petaluma, CA; Harris Corporation, Melbourne, FL; Tdsoft Communications Ltdl, Herzeliya, ISRAEL; and Adaptive Broadband Corporation, Sunnyvale, CA have been added as parties to this venture. The following member has changed its name: GTE Government Systems to General Dynamics Communication Systems, Needham Heights, MA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The ATM Forum intends to file additional written notification disclosing all changes in membership.

On April 19, 1993, The ATM Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on July 14, 1999. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 00–16002 Filed 6–23–00; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium, Inc.

Notice is hereby given that, on February 4, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium, Inc. (the ''Consortium'') has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, New England Financial/Metlife, Boston, MA joined the Consortium as a Portfolio member.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on January 14, 2000. A notice has not yet been published in the **Federal Register**.

**Constance E. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 00–16004 Filed 6–23–00; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Die Products Consortium (''DPC'')

Notice is hereby given that, on November 15, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Die Products Consortium (''DPC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Amkor Technology, Inc., West Chester PA; Chip Supply, Inc., Orlando, FL; Cypress Semiconductor Corporation, San Jose, CA; Honeywell, Inc., Minneapolis, MN; Intel Corporation, Santa Clara, CA; Lucent Technologies, Inc., Murray Hill, NJ, Microelectronics and Computer Technology Corporation, Austin, TX; National Semiconductor Corporation, Santa Clara, CA; Rockwell Collins, Inc., Cedar Rapids, IA; Tempo Electronics, North Hollywood, CA; and Texas Instruments, Dallas, TX. The nature and objectives of the venture are to provide leadership to the microelectronics industry to promote methods for improved die product (including flip chip) quality, reliability, handling, shipping, and associated infrastructure at lowest cost to meet the needs of users for smaller form factor, higher performance, lower cost products.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 00–16003 Filed 6–23–00; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Storage Industry Consortium

Notice is hereby given that, on October 18, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Storage Industry Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advanced Research, Minneapolis, MN; Cirrus Logic, Fremont, CA; ECD, Troy, MI; EMC, Hopkinton, MA; Imation Corporation, Oakdale, MN; Lucent Technologies, Allentown, PA; Maxtor, Milpitas, CA; Minnesota Mining and Manufacturing Company, St. Paul, MN; Polaroid, Cambridge, MA; Silicon Graphics, Mountain View; CA; Siros Technologies, Mountain View, CA; Sun Microsystems, Palo Alto, CA; and Texas Instruments, Dallas, TX have been added as parties to this venture. The following colleges and universities have joined the National Storage Industry Consortium as university associate members: Argonne National Laboratory, Argonne, IL; Harvard University, Cambridge MA; Lawrence Berkeley National Laboratory, Berkeley, CA; Montana State University, Bozeman, MT; University of Akron, OH; University of Alberta, Edmonton, CANADA; University of Idaho, Moscow, ID; and Vanderbilt University, Nashville, TN. Also, Optitek, Inc., Mountain View, CA has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Storage Industry Consortium intends to file additional written notification disclosing all changes in membership.

On June 12, 1991, National Storage Industry Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 13, 1991 (56 FR 38465).

The last notification was filed with the Department on April 15, 1997. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 10, 1997 (62 FR 60531).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 00–16001 Filed 6–23–00; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute (''SwRI''): Clean Diesel III

Notice is hereby given that, on January 12, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SwRI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Catepillar Inc., Peoria, IL; Cummins Engine Company, Columbus, IN; Eaton Corporation, Southfield, MI; Hyundai Motor Co., Kyunggi-Do, KOREA; Iveco Motorenforschung AG, Arbon, SWITZERLAND; John Deere Product Engineering Center, Deere and Company, Waterloo, IA: Komatsu Ltd., Tokyo, JAPAN; Peugeot Citroen Automobiles SA, Neuilly Sur Seine, FRANCE; Renault Vehicules Industriels, Saint-Priest, FRANCE, joined by its subsidiary Mack Trucks, Inc., Hagerstown, MD; Van Doorne's Bedrifswagenfabriek DAF B.V., Eindhoven, THE NETHERLANDS; and Volvo Truck Corp., Goteborg, SWEDEN. The nature and objectives of the venture are to achieve $NO_X$ and HC level of 0.5g/hp-hr and PM level of 0.01g/hp-hr over the U.S. transient heavy-duty test cycle, through the investigation of the following technologies: Optimization of a second generation system for cycle-resolved water injection; effect of water emulsion on post-combustion exhaust emission reduction devices; direct injection homogeneous charge compression ignition; variable valve actuation; model-based microprocessor based electronic control systems; development of individual valve train lubrication concept for friction and wear reduction; heavy-duty gasoline engine and advanced injection rate plus exhaust gas recirculation and the transfer of such technologies to the participants and the development of demonstrations engines.

Membership in this research group project remains open, and the participants intend to file additional

written notification disclosing all changes in membership or planned activities.

**Constance K. Robinson,**

*Director of Operations.*

[FR Doc. 00–15999 Filed 6–23–00; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 15, 2000, Celgene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methylphenidate (1724) a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture methylphenidate for product research and development.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 25, 2000.

Dated: June 14, 2000.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 00–15986 Filed 6–23–00; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 13, 2000, and published in the **Federal Register** on March 21, 2000, (65 FR 55), Organichem Corporation, 33 Riverside Avenue, Renssalaer, New York 12144, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Methylphenidate (1724) | II |
| Meperidine (9230) | II |

The firm plans to manufacture meperidine as bulk product for distribution to its customers and to manufacture methylphenidate for distribution to a customer.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Organichem Corporation to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Organichem Corporation to ensure that the company's registration is consistent with the public interest. The investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 14, 2000.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 00–15984 Filed 6–23–00; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 11, 2000, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Codeine (9050) | II |
| Dihydrocodeine (9120) | II |
| Oxycodone (9143) | II |
| Hydromorpnone (9150) | II |
| Hydrocodone (9193) | II |
| Meperidine (9230) | II |
| Morphine (9300) | II |
| Thebaine (9333) | II |
| Opium extracts (9610) | II |
| Opium powdered (9639) | II |

The firm plans to manufacture the listed controlled substances for distribution as bulk pharmaceutical products to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 25, 2000.

Dated: June 14, 2000.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 00–15985 Filed 6–23–00; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

June 20, 2000.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or

VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

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

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

• Enhance the quality, utility, and clarity of the information to be collected; and

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

*Agency:* Occupational Safety and Health Administration (OSHA).

*Title:* Construction Records for Blasting Operations.

*Type of Review:* Extension.

*OMB Number:* 1218–0217.

*Frequency:* On occasion.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 160.

*Number of Annual Responses:* 160.

*Estimated Time Per Response:* 8 hours, once per worksite.

*Total Burden Hours:* 1,280 hours.

*Total Annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services):* $227,200.

*Description:* The construction standard for blasting operations (29 CFR 1926.900(k)(3)(i)) requires employers to post warning signs or use other alternative means to prevent premature detonation of electric blasting caps and explosives attached to them by mobile radio transmitters. A written description of the alternative means (measures) to be taken must be prepared.

*Agency:* Occupational Safety and Health Administration (OSHA).

*Title:* Trucks Used Underground to Transport Explosives—Inspection Certification.

*Type of Review:* Extension.

*OMB Number:* 1218–0227.

*Frequency:* Weekly.

*Affected Public:* Business or other for-profit; Federal Government; State, Local, or Tribal Government.

*Number of Respondents:* 1.

*Number of Annual Responses:* 52.

*Estimated Time Per Response:* 10 minutes.

*Total Burden Hours:* 9 hours.

*Total Annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The construction standard for underground transportation of explosives (29 CFR 1926.903(e)) requires certification of a weekly maintenance inspection of trucks used for this purpose. The inspection certification, which attests to the safety of the truck's electrical system, is necessary to ensure compliance with the standard.

*Agency:* Occupational Safety and Health Administration (OSHA).

*Title:* Construction Records for Test and Inspection of Personal Hoists.

*Type of Review:* Extension.

*OMB Number:* 1218–0231.

*Frequency:* On occasion, Quarterly.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 14,400.

*Number of Annual Responses:* 63,360.

*Estimated Time Per Response:* 15 minutes.

*Total Burden Hours:* 15,840 hours.

*Total Annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services):* $0.

*Description:* Following assembly and erection of hoists, and before being put in service, 29 CFR 1926.552(c)(15) requires that an inspection and test of all functions and safety devices be made under the supervision of a competent person. A similar inspection and test is required following major alteration of an existing installation. All hoists shall be inspected and tested at not more than 3-month intervals.

*Agency:* Occupational Safety and Health Administration (OSHA).

*Title:* Rigging Equipment for Material Handling.

*Type of Review:* Extension.

*OMB Number:* 1218–0233.

*Frequency:* On occasion.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 18,940.

*Number of Annual Responses:* 18,940.

*Estimated Time Per Response:* 5 minutes.

*Total Burden Hours:* 1,515 hours.

*Total Annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The construction standard on rigging equipment for material handling (29 CFR 1926.251(c)(15)(ii)) requires employers to retain a certificate of the proof-test performed on welded end wire rope attachments. The certification, prepared by the manufacturer or equivalent entity, attests to the safety of the attachments after welding by testing them at twice their rated capacity.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 00–16090 Filed 6–23–00; 8:45 am]

**BILLING CODE 4510–26–M**

## DEPARTMENT OF LABOR

## Pension and Welfare Benefits Administration

**[Prohibited Transaction Exemptions 2000–25, et al.; Application Nos. D–10119 and D–10120, et al.]**

## Grant of Individual Exemptions for Morgan Guaranty Trust Company of New York, et al.

**AGENCY:** Pension and Welfare Benefits Administration, Department of Labor (the Department).

**ACTION:** Notice of technical correction.

On June 1, 2000, the Department published in the **Federal Register** at 65 FR 35129 a notice of five individual exemptions in which the grant numbers were inadvertently omitted from the operative language. On page 35134, in the first paragraph under the heading ''Exemption,'' the individual Prohibited Transaction Exemptions (PTEs) should have been listed as follows: PTE 2000-25, Morgan Guaranty Trust Company of New York and J.P. Morgan Investment Management Inc.; PTE 2000–26, Goldman, Sachs & Co.; PTE 2000–27, The Chase Manhattan Bank; PTE 2000–28, Citigroup Inc.; and PTE 2000–29, Morgan Stanley Dean Witter & Co.

**FOR FURTHER INFORMATION CONTACT:** Ms. Andrea W. Selvaggio or Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, D.C., this 20th day of June, 2000.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations, Pension and Welfare Benefits Administration*

[FR Doc. 00–16020 Filed 6–23–00; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

**[Application No. D–10539, et al.]**

### Proposed Exemptions; Pension Plan for Employees of Southco, Inc. (the Pension Plan); and Southco, Inc. Employee Stock Ownership Plan (the ESOP; Collectively, the Plans)

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Notice of proposed exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

#### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

#### Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

#### Pension Plan for Employees of Southco, Inc. (the Pension Plan); and Southco, Inc. Employee Stock Ownership Plan (the ESOP; collectively, the Plans) Located in Concordville, Pennsylvania

Exemption Application Nos. D–10539 and D–10540

#### Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570 Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed purchase and holding by the Pension Plan of common stock (the Company Stock) issued by South Chester Tube Company (the Company), an affiliate of Southco Inc. (the Employer), from the ESOP or the Employer; and (2) the acquisition, holding, and exercise of an irrevocable put option (the Put Option) permitting the Pension Plan to sell the Company Stock back to the Employer for cash in an amount that is the greater of either (i) the fair market value of the Company Stock at the time of the transaction (as established by a qualified, independent appraiser), or (ii) the Pension Plan's original acquisition cost for the Company Stock.

This proposed exemption is subject to the following conditions:

(a) Immediately after acquisition by the Pension Plan, the aggregate fair market value of the Company Stock does not exceed 7.5% of the total assets of the Pension Plan;

(b) A qualified, independent fiduciary representing the Pension Plan expressly approves each acquisition of the Company Stock, based upon a determination that such acquisition is in the best interests of, and appropriate for, the Pension Plan;

(c) The independent fiduciary monitors the Pension Plan's holding of the Company Stock and takes whatever action necessary to protect the Pension Plan's rights, including, but not limited to, the exercising of the Put Option, if appropriate;

(d) The Pension Plan pays a price that is no greater than the fair market value of the Company Stock at the time of the transaction (as established by a qualified, independent appraiser);

(e) In any sale of the Company Stock by the ESOP to the Pension Plan, the ESOP receives a price that is no less than the fair market value of the Company Stock at the time of the transaction (as established by a qualified, independent appraiser);

(f) The Pension Plan pays no commissions nor other fees in connection with the purchase or sale of the Company Stock;

(g) Each purchase or sale of the Company Stock by the Pension Plan is a one-time transaction for cash;

(h) The Employer's obligations under the Put Option are secured by an escrow account at an independent financial institution and containing cash or U.S. government securities worth at least 25 percent of the fair market value of the Company Stock held by the Pension Plan;

(i) The purchase of the Company Stock by the Pension Plan is not part of an arrangement to benefit the Employer pursuant to the Employer's obligation to redeem shares of the Company Stock from the participants of the ESOP; and

(j) All sales of the Company Stock by the ESOP to the Employer meet the requirements of section 408(e) of the Act and the regulation thereunder (see 29 CFR § 2550.408(e)).

#### Summary of Facts and Representations

1. The Employer, a wholly owned subsidiary of the Company, has its

principal office and place of business in Concordville, Pennsylvania. The Employer is engaged in the business of designing and manufacturing industrial latches and access hardware. These products are sold and distributed nationally and internationally through the Employer's own sales organization, as well as through a network of authorized distributors.

2. The Pension Plan is a defined benefit pension plan. As of December 31, 1998, the Pension Plan had 1324 participants. As of March 31, 1999, the Pension Plan had total assets of $110,877,665. No contributions to the Pension Plan are currently due, nor have any been made since 1985 because of the full funding limitations of section 412 of the Code.

The ESOP, an employee stock ownership plan, had, as of December 31, 1998, 1052 participants. As of that date, the ESOP had total assets of $55,192,942. No contributions to the ESOP are currently due.

The trustee for both the Pension Plan and the ESOP is PNC Bank, N.A., located in Philadelphia, Pennsylvania.

3. As of December 31, 1998, the Company had a consolidated net worth of $105,000,000. Equity interests in the Company and its subsidiaries, including the Employer, are not publicly traded. As of October 11, 1999, approximately 29% of the Company Stock was held by the ESOP; 56.9% was held by three trusts (the Family Trusts) established by the deceased founders of the Employer for the benefit of their family members, including children and grandchildren; 14.1% was held by various other individuals.

Because the ESOP owns 29% and the Family Trusts own 56.9% of the outstanding Company Stock, more than 50% of the Company Stock is owned by persons who are not ''independent of the issuer'' (within the meaning of section 407(f)(1)(B) of the Act). Thus, the Company Stock is not a ''qualifying employer security'' (as defined in section 407(d)(5)(A) of the Act) with respect to the Pension Plan. Accordingly, absent an individual exemption, the acquisition of the Company Stock by the Pension Plan would constitute a prohibited transaction.

The Company Stock has been appraised by Coopers & Lybrand L.L.P. (Coopers), an independent public accounting firm that performs annual valuations of the Company Stock. In its appraisal report, dated December 31, 1999, Coopers notes the recognition that the Company has received as a quality producer of industrial fasteners. In arriving at a fair market value for the Company Stock, Cooper states that it gave consideration to the eight factors in the valuation of the stock of closely-held businesses that are set forth in the Internal Revenue Service's Revenue Ruling 59–60.[1] Coopers also utilized the market approach and the income approach to valuation and concluded that a minority interest in the Company Stock had a fair market value of $16,096 per share, as of December 31, 1999.

4. It is proposed that the Pension Plan purchase shares of the Company Stock from the ESOP, as the participants of the ESOP elect to diversify their investment under section 401(a)(2) of the Code, or from the Employer, as shares of the Company Stock are redeemed from participants of the ESOP upon distribution to them or otherwise become available.[2] Each purchase of the Company Stock by the Pension Plan will be a one-time transaction for cash.

The applicant represents that the Company Stock represents an excellent long-term investment opportunity for the Pension Plan because the Pension Plan will acquire an equity interest in a strong, stable company. Purchase of the Company Stock would also allow further diversification of the Pension Plan's assets.

As a condition of this proposed exemption, immediately after acquisition by the Pension Plan, the aggregate fair market value of the Company Stock may not exceed 7.5% of the total assets of the Pension Plan. The applicant notes that the 7.5% limitation is more stringent than the 10% limitation of section 407(a)(2) of the Act on the amount of ''qualifying employer securities'' that may be acquired by a defined benefit pension plan.

The Pension Plan would pay a price that is no greater than the fair market value of the Company Stock at the time of the transaction, as established by a qualified, independent appraiser. Further, the Pension Plan would pay no commissions nor other fees in connection with the purchase of the Company Stock. Finally, the Pension Plan would have the protection of a Put Option, which will enable it to sell the Company Stock back to the Employer for cash in an amount that is the greater of either (i) the fair market value of the Company Stock at the time of the transaction (as established by a qualified, independent appraiser), or (ii) the Pension Plan's original acquisition cost for the Company Stock. The Employer will bear the cost of all appraisals necessary for purchases of the Company Stock by the Pension Plan pursuant to this proposed exemption, if granted. The Employer will also secure its obligations under the Put Option by an escrow account at an independent financial institution and containing cash or U.S. government securities worth at least 25 percent of the fair market value of the Company Stock held by the Pension Plan.

5. The Employer has retained TrustCorp America (TrustCorp.) to serve as the independent fiduciary for the Pension Plan with respect to the Pension Plan's purchases of the Company Stock. TrustCorp, an affiliate of the regional brokerage firm Ferris Baker Watts (Ferris), is located in Washington, DC. In its letter dated September 29, 1998, TrustCorp states it directly administers 56 ERISA accounts, representing a wide variety of plans, with approximately $13.8 million in assets. TrustCorp represents that it is independent of the Employer and derives less than one (1) percent of its annual gross income from the Employer and its affiliates. TrustCorp also acknowledges its duties, responsibilities, and liabilities in acting as a fiduciary under the Act with respect to the investment of any assets of the Pension Plan in the Company Stock or the sale of the Company Stock.

6. TrustCorp will expressly approve in writing each acquisition of the Company Stock, based upon a determination that such acquisition is in the best interests of, and appropriate for, the Pension Plan. Each purchase of the Company Stock made by the Pension Plan will be consistent with the investment guidelines, objectives, and liquidity needs of the Pension Plan at the time of the transaction. TrustCorp will review all pertinent information, including the most recent independent appraisal of the Company Stock, the current financial condition of the Pension Plan, the terms of the purchase, and the current financial condition of the Company. TrustCorp will analyze the valuation approach utilized by the appraiser of the Company Stock and determine, among other things, whether the appraiser's minority interest discount for establishing the fair market value of the Company Stock was appropriate.

As the fiduciary responsible for any assets of the Pension Plan invested in the Company Stock, TrustCorp will direct the exercise of all voting and

[1] 1 See Rev. Rul. 59–60, 1959–1 C.B. 237, as modified by Rev. Rul. 65–193, 1965–2 C.B. 370, and as modified and extended by Rev. Rul. 68–609, 1968–2 C.B. 327, and Rev. Rul 77–287, 1977–2 C.B. 319.

[2] The applicant represents that all sales of the Company Stock by the ESOP to the Employer will meet the requirements of section 408(e) of the Act and the regulation thereunder (see 29 CFR § 2550.408(e)).

other ownership rights associated with the Company Stock. TrustCorp will also monitor the Pension Plan's holding of the Company Stock and take whatever action necessary to protect the Pension Plan's rights, including, but not limited to, the exercising of the Put Option, if appropriate. If TrustCorp exercises the Put Option, no more purchases of the Company Stock will by made by the Pension Plan pursuant to this proposed exemption, if granted.

7. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code because (a) Immediately after acquisition by the Pension Plan, the aggregate fair market value of the Company Stock will not exceed 7.5% of the total assets of the Pension Plan; (b) TrustCorp, as the independent fiduciary for the Pension Plan, will expressly approve each acquisition of the Company Stock, based upon a determination that such acquisition is in the best interests of, and appropriate for, the Pension Plan; (c) TrustCorp will monitor the Pension Plan's holding of the Company Stock and take whatever action necessary to protect the Pension Plan's rights, including, but not limited to, the exercising of the Put Option, if appropriate; (d) the Pension Plan will pay a price that is no greater than the fair market value of the Company Stock at the time of the transaction (as established by a qualified, independent appraiser); (e) the Pension Plan will pay no commissions nor other fees in connection with the purchase or sale of the Company Stock; (f) each purchase or sale of the Company Stock by the Pension Plan will be a one-time transaction for cash; and (g) the Employer's obligations under the Put Option will be secured by an escrow account at an independent financial institution and containing cash or U.S. government securities worth at least 25 percent of the fair market value of the Company Stock held by the Pension Plan.

*For Further Information Contact:* Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

**Robert P. Yoo MD, PC Profit Sharing Plan (the Plan) Located in Hyannis, Massachusetts**

[Applicant No. D–10842]

**Proposed Exemption**

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, will not apply to the proposed sale (the Sale) by the Plan of a parcel of unimproved real property (the Property) to Robert P. Yoo, M.D. (Dr. Yoo), a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) All terms and conditions of the Sale are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(b) The Sales price is the greater of $113,263 or the fair market value of the Property as of the date of the Sale;

(c) The fair market value of the Property has been determined by an independent, qualified appraiser;

(d) The Sale is a one-time transaction for cash; and

(e) The Plan does not pay any commissions, costs or other expenses in connection with the Sale.

**Summary of Facts and Representations**

1. Robert P. Yoo MD, PC (the Employer) is the sponsor of the Plan. Dr. Yoo is the sole owner and shareholder of the Employer. The Employer is in the business of plastic surgery. The Employer was incorporated on October 1, 1979, in the State of Massachusetts and is located in Hyannis, Massachusetts.

The Plan is a defined contribution profit sharing plan which was established on October 1, 1979. As of May 18, 2000, the Plan had four participants, who are as follows: Dr. Yoo, Marcia C. Fischer, Hilda S. Cohen, and Catherine M. Damon. Dr. Yoo and his wife, Jane E. Yoo, are the Trustees of the Plan. As of November 8, 1999, the Plan had total assets of $690,923.45.

2. In 1984, the Plan purchased the Property from Robert W. Powers and Rita S. Powers, unrelated third parties, for a purchase price of $55,000.[3] It is represented that Dr. Yoo and Jane E. Yoo, as Plan trustees, made the original decision to purchase the Property as a long term growth investment for the Plan. The Property is a 5.5 acre parcel of unimproved real property, located at 131 Ashley Drive, Centerville, Massachusetts. The Property is adjacent to property owned and resided on by Dr. Yoo and his wife. The applicant represents that the Property has not been leased to, or used by, any party in interest with respect to the Plan since the date of acquisition by the Plan. The value of the Property represents approximately 14.9% of the Plan's total assets as of May 18, 2000. The applicant represents that the only expenditure the Plan has paid since owning the Property was $16,500 in real estate taxes from 1984 (*i.e.,* the year of original acquisition) until May 18, 2000. Therefore, the total cost to the Plan for the Property was $71,500 as of May 18, 2000 ($16,500 + $55,000 = $71,500). From the time of the purchase through May 18, 2000, the Property has remained vacant and no income has been generated.

3. The Property was appraised (the Appraisal) on September 27, 1999, by Meredith A. McClane (Ms. McClane), a Certified Residential Real Estate Appraiser. Ms. McClane is independent of the Employer and is an appraiser with Davis Appraisals located in West Hyannisport, Massachusetts.

Because of the lack of data on recent sales of unimproved property in the area in which the Property is located, Ms. McClane determined the best use and highest value of the Property was associated with valuing the Property consistent with the so-called Development Procedure, where undeveloped land is assumed to be subdivided, developed and sold. Development costs, incentive costs, and carrying charges are subtracted from the estimated proceeds of the sale, and the net income projection is discounted over the estimated period required for market absorption of the developed sites to derive an indication of value for the land being appraised. Ms. McClane determined that the fair market value of the Property was $102,966 as of September 27, 1999.

Additionally, the applicant will pay to the Plan a premium of $10,297 as recommended by Ms. McClane as a result of the applicant's ownership of improved real property which is adjacent to the Property. Ms. McClane states that this upward adjustment, commonly referred to as ''assemblage'' value, reflects the willingness of a purchaser to pay above market value for a parcel of property in order to preserve such purchaser's interest in their present holdings of other parcels which are adjacent to such property. Therefore, based on the valuation procedure plus the premium, the total proposed purchase price for the Property was

[3] The Department expresses no opinion herein as to whether the acquisition and holding of the Property by the Plan violated any of the provisions of Part 4 of Title I of the Act.

$113,263 as of May 18, 2000 ($102,966 + $10,297 = $113,263).

4. The applicant represents that the Property's rate of appreciation appears to have plateaued and believes that the continued ownership of this relatively illiquid asset is not in the best interest of the Plan and its participants and beneficiaries. The transaction will be a one-time cash sale, and will enable the Plan to diversify its investment portfolio.

Furthermore, the applicant represents that the proposed transaction is in the best interest and protective of the Plan because the Sale will be for an amount equal to the greater of: (i) $113,263, which represents the sum of the fair market value of the Property as of September 27, 1999 (*i.e.,* $102,966) and the premium based on the ''assemblage'' value (*i.e.,* $10,297), as determined by the Appraisal and Ms. McClane; or (ii) the current fair market value of the Property, as established by an independent, qualified appraiser at the time of the Sale. This amount exceeds the original acquisition cost of the Property, plus expenses and real estate taxes incurred by the Plan from the date of the acquisition until the date of the proposed Sale (i.e., a total cost of $71,5000 as of May 18, 2000). The Plan will not pay any commissions, costs or other expenses in connection with the Sale. The applicant states that the Appraisal will be updated at the time of the transaction.[4]

5. In summary, the applicant represents that the subject transaction satisfies the statutory criteria contained in section 408(a) of the Act and section 4975(c)(2) of the Code for the following reasons:

(a) All terms and conditions of the Sale will be at least as favorable to the Plan as those which the Plan could obtain in an arms-length transaction with an unrelated party;

(b) The fair market value for Property has been determined by an independent, qualified appraiser;

(c) The Sale will be a one-time transaction for cash;

(d) The Plan will not pay any commissions, costs or other expenses in connection with the Sale;

(e) The Plan will receive an amount equal to the greater of:

(i) $113,263; or

(ii) the current fair market value of the Property, as established by an independent, qualified appraiser at the time of the Sale.

[4] For this purpose, the Department assumes that the updated appraisal of the Property will take into account any new data on recent sales of similar property in the local real estate market which may affect the valuation conclusion at that time.

**Notice to Interested Persons:** Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and Department within 15 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of the notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Khalif Ford of the Department, telephone (202) 219–8883 (this is not a toll-free number).

### Actuarial Sciences Associates, Inc. (ASA) and ASA Fiduciary Counselors Inc. (ASA Counselors) Located in Alexandria, VA

[Exemption Application No: D–10879]

### Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth 29 C.F.R. Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[5]

*I. General Transactions*

If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D), shall not apply to a transaction between a party in interest with respect to the Plumbers and Pipe Fitters National Pension Fund (the Fund) and an account (the Account) that holds certain assets of the Fund managed by ASA or ASA Counselors, while serving as independent named fiduciary (the Named Fiduciary) in connection with Prohibited Transaction Exemption 99–46 (PTE 99–46)(64 FR 61944, November 15, 1999); provided that the following conditions are satisfied:

(a) ASA or ASA Counselors, as Named Fiduciary of the Account, is an investment adviser registered under the Investment Advisers Act of 1940 that has, as of the last day of its most recent fiscal year, total client assets under its management and control in excess of $50,000,000, and shareholders' equity or partners' equity, as defined in Section III(h), below, in excess of $750,000;

(b) At the time of the transaction, as defined in Section III(i), below, the party in interest or its affiliate, as defined in Section III(a), below, does not have, and during the immediately preceding one (1) year has not exercised, the authority to—

(1) appoint or terminate the Named Fiduciary as a manager of the Account, or

(2) negotiate the terms of the management agreement with the Named Fiduciary (including renewals or modifications thereof) on behalf of the Fund;

(c) The transaction is not described in—

(1) Prohibited Transaction Class Exemption 81–6 (PTCE 81–6)[6] (relating to securities lending arrangements);

(2) Prohibited Transaction Class Exemption 83–1 (PTCE 83–1)[7] (relating to acquisitions by plans of interests in mortgage pools), or

(3) Prohibited Transaction Class Exemption 82–87 (PTCE 82–87)[8] (relating to certain mortgage financing arrangements);

(d) The terms of the transaction are negotiated on behalf of the Account under the authority and general direction of the Named Fiduciary, and either the Named Fiduciary, or (so long as the Named Fiduciary retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the Named Fiduciary, makes the decision on behalf of the Account to enter into the transaction, provided that the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest;

(e) The party in interest dealing with the Account is neither the Named Fiduciary nor a person related to the Named Fiduciary, as defined in Section III(f), below;

(f) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the Named Fiduciary, the terms of the transaction are at least as favorable to the Account as the terms generally available in arm's length transactions between unrelated parties;

(g) Neither the Named Fiduciary nor any affiliate thereof, as defined in Section III(b), below, nor any owner, direct or indirect, of a 5 percent (5%) or more interest in the Named Fiduciary is a person who, within the ten (10) years immediately preceding the transaction, has been either convicted or released from imprisonment, whichever is later, as a result of:

(1) Any felony involving abuse or misuse of such person's employee

[5] For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer to the corresponding provisions of the Code.

[6] 46 FR 7527, January 23, 1981.

[7] 48 FR 895, January 7, 1983.

[8] 47 FR 21331, May 18, 1982.

benefit plan position or employment, or position or employment with a labor organization;

(2) Any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company, or fiduciary;

(3) Income tax evasion;

(4) Any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or

(5) Any other crimes described in section 411 of the Act.

For purposes of this Section I(g), a person shall be deemed to have been ''convicted'' from the date of the judgment of the trial court, regardless of whether the judgment remains under appeal.

*II. Specific Exemption Involving Places of Public Accommodation*

If the exemption is granted, the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective November 8, 1999, to the furnishing of services, facilities, and any goods incidental thereto by a place of public accommodation owned by the Account managed by the Named Fiduciary to a party in interest with respect to the Fund, if the services, facilities, and incidental goods are furnished on a comparable basis to the general public.

*III. Definitions*

(a) For purposes of Section I(b), above, of this proposed exemption, an ''affiliate'' of a person means—

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any corporation, partnership, trust, or unincorporated enterprise of which such person is an officer, director, 5 percent (5%) or more partner, or employee (but only if the employer of such employee is the plan sponsor), and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as described in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility, or control regarding the custody, management, or disposition of plan assets. A named fiduciary (within the meaning of section 402(a)(2) of the Act) of a plan, and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of Section I(b) if such employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

(b) For purposes of Section I(g), above, of this proposed exemption, an ''affiliate'' of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust, or unincorporated enterprise of which such person is an officer, director, or a 5 percent (5%) or more partner or owner, and

(4) Any employee or officer of the person who—

(A) Is a highly compensated employee (as described in section 4975(e)(2)(H) of the Code) or officer (earning 10 percent (10%) or more of the yearly wages of such person) or

(B) Has direct or indirect authority, responsibility or control regarding the custody, management, or disposition of Fund assets.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''goods'' includes all things which are movable or which are fixtures used by the Account but does not include securities, commodities, commodities futures, money, documents, instruments, accounts, chattel paper, contract rights, and any other property, tangible or intangible, which, under the relevant facts and circumstances, is held primarily for investment.

(e) The term ''party in interest'' means a person described in section 3(14) of the Act and includes a ''disqualified person,'' as defined in section 4975(e)(2) of the Code.

(f) The Named Fiduciary is ''related'' to a party in interest for purposes of Section I(e), above, of this proposed exemption, if the party in interest (or a person controlling, or controlled by, the party in interest) owns a 5 percent (5%) or more interest in the Named Fiduciary, or if the Named Fiduciary (or a person controlling, or controlled by, the Named Fiduciary) owns a 5 percent (5%) or more interest in the party in interest. For purposes of this definition:

(1) The term ''interest'' means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(B) The capital interest or the profits interest of the entity if the entity is a partnership; or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest held in any capacity if the person has or shares the authority—

(A) To exercise any voting rights, or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest.

(g) The term ''relative'' means a relative as that term is defined in section 3(15) of the Act, or a brother, sister, or a spouse of a brother or sister.

(h) For purposes of Section I(a) of this proposed exemption, the term ''shareholders'' equity'' or ''partners'' equity'' means the equity shown in the most recent balance sheet prepared within the two (2) years immediately preceding a transaction undertaken pursuant to this proposed exemption, in accordance with generally accepted accounting principles.

(i) The ''time'' as of which any transaction occurs is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after the effective date of this exemption, if granted, or a renewal that requires the consent of the Named Fiduciary occurs on or after such effective date, and the requirements of this proposed exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied thereafter with respect to the transaction. Nothing in this subsection shall be construed as exempting a transaction which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of this proposed exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this proposed exemption.

*Temporary Nature of Exemption*

The Department has determined that the relief provided to ASA and ASA Counselors by this proposed exemption will be temporary in nature. The exemption, if granted, will be effective, November 8, 1999, through December 20, 1999, for ASA and from December 20, 1999, and thereafter for ASA Counselors. The exemption, if granted, will expire on the day which is five (5) years from November 8, 1999. Accordingly, the relief provided by this proposed exemption will not be available upon expiration of such five-year period for any new or additional transactions described herein after such date. Should ASA or ASA Counselors wish to extend, beyond the five-year period, the relief provided by this proposed exemption, they may submit another application for exemption.

*Preamble*

In October 1997, the Department received an exemption application (D–10514) from the Fund requesting relief from the prohibited transaction provisions of section 406(a) and (b) of the Act. The Department published a notice of proposed exemption (the Notice) in the **Federal Register** on May 29, 1998, at 63 FR 29453. The final exemption, Prohibited Transaction Exemption 99–46 (PTE 99–46), was published in the **Federal Register** on November 15, 1999, at 64 FR 61944. PTE 99–46 provides an exemption, effective October 9, 1997, from the restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, for the transfer to the Fund from the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL–CIO (the Union), a party in interest with respect to the Fund, of the Union's limited partnership interests in the Diplomat Properties, Limited Partnership (the Partnership), the sole asset of which is the Diplomat Resort and Country Club (the Property), and the transfer to the Fund of the Union's stock in Diplomat Properties, Inc., the corporate general partner of the Partnership; provided certain conditions are satisfied. In response to issues raised by the commentators after the publication of the Notice, the applicants agreed to a number of additional requirements, including the retention by the Fund of an independent Named Fiduciary to oversee the Fund's investment in the Partnership. In connection with PTE 99–46, ASA was appointed, effective November 8, 1999, by the trustees of the Fund (the Trustees) to serve as the Named Fiduciary of the Account which holds the Fund's interest in the Partnership.

**Summary of Facts and Representations**

1. The Fund is a Taft-Hartley multi-employer defined benefit pension fund. The Fund has approximately 123,349 participants and beneficiaries, as of March 2, 2000. As of November 30, 1999, the Fund had approximately $4.3 billion in assets. The assets of the Fund include the interests in the Partnership and in the corporate general partner of the Partnership which the Fund acquired pursuant to PTE 99–46. The sole asset of the Partnership consists of the Property located in Hollywood and Hallandale, Florida. The Property consists of several parcels, including an oceanfront hotel complex, a motel, a vacant parcel of oceanfront real estate approved for development as condominiums, a golf course, a country club, and a marina (collectively, the Project).

The Fund currently owns 100 percent (100%) of the equity interests in the Partnership. Such interests in the Partnership are not publicly offered securities. Pursuant to regulations issued by the Department, 29 CFR § 2510.3–101 (the Plan Assets Regulation), when a plan acquires an equity interest in an entity, which interest is not a publicly offered security or a security issued by an investment company registered under the Investment Company Act of 1940, the underlying assets of the entity will be deemed to include plan assets, unless certain exceptions apply. However, when 100 percent (100%) of the outstanding equity interests in such entity are owned by a plan or a related group of plans, such exceptions do not apply (see 29 CFR § 2510.3–101(h)(3) of the Plan Asset Regulation). Accordingly, in the situation described herein the applicants represent that the Property, which is the sole asset of the Partnership, would be deemed to be an asset of the Fund; and any transaction involving the Property is treated as a transaction involving Fund assets for purposes of the Act.

2. The request for relief from the prohibited transaction provisions of the Act was filed on behalf of ASA and ASA Counselors. ASA is a Delaware corporation which provides a broad range of benefit consulting services. ASA became a registered investment adviser under the Investment Advisers Act of 1940, as amended, (the Advisers Act) on November 19, 1998, and ceased to be a registered investment adviser on January 29, 2000.[9] ASA Counselors, a wholly owned subsidiary of ASA, was established to provide investment advisory services. ASA Counselors became a registered investment adviser under the Advisers Act, effective November 29, 1999. It is represented that ASA Counselors has a net worth in excess of $750,000. Ellen A. Hennessy, Esq. serves as President and CEO of ASA Counselors and is a Senior Vice President of ASA.

In connection with PTE 99–46, ASA was appointed, effective November 8, 1999, by the Trustees to serve as the Named Fiduciary of the Account, which holds the Fund's interest in the Partnership and the Property which is the sole asset of the Partnership. In this regard, it is represented that the Trustees chose ASA from a list of potential independent fiduciaries that were acceptable to the Department. The terms of the appointment of ASA are set forth in the Independent Named Fiduciary Agreement (the Agreement) between the Fund and ASA. It is represented that in the course of granting PTE 99–46, the terms and conditions under which ASA was to be engaged as the Named Fiduciary of the Account were reviewed by the Department of Labor. It is represented that those terms and conditions permitted the assignment of the Agreement to an affiliate of ASA, provided that such affiliate met certain conditions.

Subsequently, it is represented that when ASA Counselors became a registered investment adviser, and began performing the investment advisory services previously performed by ASA, ASA assigned its responsibilities under the Agreement to ASA Counselors with the consent of the Trustees of the Fund and the Department, in accordance with the terms of the Agreement. For this reason, ASA and ASA Counselors have requested that the proposed exemption be applicable to both ASA and ASA Counselors.

Furthermore, the applicants have requested retroactive relief for transactions described herein, effective as of November 8, 1999, the date of ASA's appointment, to cover the entire period that either ASA or ASA Counselors has acted as the Named Fiduciary. Specifically, it is represented that ASA served as Named Fiduciary with respect to the Account from

[9] The applicants represent that ASA was a registered investment adviser throughout the period it acted as Named Fiduciary, pursuant to PTE 96–46, from November 8, 1999, through December 20, 1999.

November 8, 1999, until December 20, 1999, and that ASA Counselors has served and will serve as Named Fiduciary thereafter. While it is represented that neither ASA nor ASA Counselors is aware of any transaction that would have been a prohibited transaction in the absence of the requested exemption, the size of the Fund and the scope of the Project would cause extreme administrative difficulties in attempting to identify whether any inadvertent party in interest transactions have occurred since November 8, 1999.

3. ASA and ASA Counselors have requested a general exemption, rather than an exemption involving a specific transaction with a particular party in interest. Due to the size and complexity of the Fund, the identities of the parties in interest which may be involved in the subject transactions were not known at the time the application was filed. Because the Property is a complex real estate development, involving a variety of commercial spaces and public accommodation, relief from the prohibited transaction provisions of the Act has been requested for transactions with parties in interest that are expected to occur in the ordinary course of the operation of the Property.

4. The requested exemption would permit ASA, effective from November 8, 1999, until December 20, 1999, and thereafter ASA Counselors, while serving as the Named Fiduciary of the Account, to engage on behalf of the Account in certain transactions with parties in interest with respect to the Fund, without violating section 406(a)(1)(A) through (D) of the Act. Further, in the case of transactions involving places of public accommodation, the requested exemption would permit, effective November 8, 1999, the furnishing of services, facilities, and any goods incidental thereto by a place of public accommodation owned by the Account that is managed by the Named Fiduciary, to a party in interest with respect to the Fund, if the services, facilities, and incidental goods are furnished on a comparable basis to the general public.

With respect to the furnishing of services, facilities, and any goods incidental thereto by places of public accommodation owned by the Account, the applicants maintain that, absent this exemption, it would not be feasible to monitor routine transactions in the operation of the hotel complex, the golf course, and the other components of the Property. In this regard, given the large number of participants and beneficiaries of the Fund, as well as the large number of contributing employers and service providers to the Fund, and their affiliates, it is not possible to prevent party in interest transactions from occurring. Accordingly, if granted, this exemption will permit the furnishing of services, facilities, and any goods incidental thereto by places of public accommodation owned by the Account, and managed by ASA or ASA Counselors, to parties in interest with respect to the Fund, if such services, facilities and incidental goods are furnished on a comparable basis to the general public.

With respect to transactions with parties in interest, other than those involving places of public accommodation, the requested exemption, if granted, would provide relief to ASA or ASA Counselors, while serving as Named Fiduciary of the Account, which is similar to the relief provided to qualified professional asset managers (QPAMs or a QPAM) under Prohibited Transaction Class Exemption 84–14 (PTCE 84–14).[10] In general, PTCE 84–14 permits various parties in interest with respect to an employee benefit plan to engage, under certain conditions, in transactions involving plan assets, if the assets are managed by persons defined under the exemption as QPAMs. The applicants have represented that the Fund currently has engaged CS Capital Management Inc. (CSC), to manage the Project.[11] In this regard, ASA Counselors has the authority to retain or remove CSC. Under the terms of the Agreement, ASA and, pursuant to the assignment, ASA Counselors have agreed to indemnify the Fund for any losses or damages incurred by the Fund as a result of a breach of fiduciary duty by any QPAM retained to manage the Project.

Specifically, ASA and ASA Counselors have requested relief under conditions which are similar to those required in Part I of PTCE 84–14.[12] In this regard, Part I of PTCE 84–14 provides relief from the restrictions of section 406(a)(1)(A)–(D) of the Act and 4975(c)(1)(A)–(D) of the Code for transactions between a party in interest with respect to an employee benefit plan and an investment fund in which such plan has an interest which is managed by a QPAM; provided certain conditions are met. One such condition (the Diverse Clientele Test), as set forth in Part I(e) of PTCE 84–14, requires that:

> The transaction is not entered into with a party in interest with respect to any plan whose assets managed by the QPAM, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof * * * ) or by the same employee organization, and managed by the QPAM, represent more than 20 percent of the total client assets managed by the QPAM at the time of the transaction.

In this regard, it is represented that due to the nature and scope of the responsibilities of the Named Fiduciary, the assets of the Fund held by the Account managed by ASA or ASA Counselors exceed 20 percent (20%) of the total assets that those entities have under management. The applicants represent that they are unable to satisfy the Diverse Clientele Test found in Part I(e) of PTCE 84–14 and accordingly, request the relief which would be provided by this proposed exemption.

5. Notwithstanding their inability to satisfy the Diverse Clientele Test, the applicants maintain that the requested administrative exemption should be granted where it can be demonstrated that the applicants, like a QPAM, act in the best interest of plan participants, unencumbered by a relationship with parties in interest. With regard to independence, it is represented that neither ASA nor ASA Counselors had any relationship with the Fund or with the Trustees, prior to the execution of the Agreement and the appointment of ASA as Named Fiduciary. In the opinion of the applicants, the Department's involvement in the appointment process ensured that when selected to serve as the Named Fiduciary of the Account, ASA was independent and qualified to act in that capacity. Furthermore, restrictions on the removal (or assignment) of the Named Fiduciary by the Trustees without either the consent of the Department or a court order obtained for cause, in the opinion of the applicants, provide sufficient protection to ensure the continued independence of ASA and ASA Counselors. Furthermore, it is represented that the annual fee paid by the Fund represents less than one-fourth (¼) of one percent (1%) of the more than $100 million in total annual

[10] 49 FR 9494 (March 13, 1984), *as corrected,* 50 FR 41430 (October 10, 1985).

[11] The applicants represent that CSC meets the definition of a QPAM, as set forth in Part V(a) of PTCE 84–14, and that PTCE 84–14 is available to provide relief from the prohibited transaction provisions of the Act for transactions between parties in interest with respect to Fund and the Project while under the management of CSC. The Department is offering no view, herein, as to whether CSC has satisfied all of the conditions, as set forth in PTCE 84–14, nor is the Department, herein, providing CSC any relief with respect to such transactions.

[12] It is represented that ASA and ASA Counselors are not requesting an exemption for the type of transactions which are described in Part II and Part III of PTCE 84–14, and would be covered by that exemption if the conditions stated therein were met.

revenues received by ASA and its subsidiaries in 1998 and 1999.

6. In the opinion of the applicants, the proposed exemption is in the best interest of the Fund. In this regard, if granted, the proposed exemption would facilitate the management of the Property in the manner most efficient and beneficial to the participants and beneficiaries that have interests in the Fund. As discussed above, the proposed exemption would facilitate routine operations of the Property. In the absence of the exemption, it would be burdensome to examine each transaction to determine whether such transaction might involve a party in interest. Furthermore, without the exemption, the Account could be prevented from entering into beneficial financial transactions with parties in interest that would enhance the return to the Fund.

7. The applicants maintain that in granting PTCE 84–14, the Department has already determined that the type of exemption requested by ASA and ASA Counselors is administratively feasible. Accordingly, in the opinion of the applicants, the requested exemption would not impose any administrative burdens on the Department which are not already imposed by PTCE 84–14.

8. It is represented that the conditions of the proposed exemption provide adequate safeguards for the protection of the rights of participants and beneficiaries of the Fund, in that ASA and ASA Counselors satisfy the requirements set forth in the definition of a QPAM, pursuant Part V(a) of PTCE 84–14. In this regard, with respect to the capitalization requirement, ASA and ASA Counselors represent that they each have shareholder's equity of more than $750,000. Further, in connection with the transfer of its responsibilities to ASA Counselors, ASA has agreed that it will cause ASA Counselors to maintain shareholders' equity of at least $750,000 while the Agreement is in effect. Furthermore, as of the last day of the most recent fiscal year, the total client assets under the management and control of ASA or ASA Counselors exceeds $50,000,000, as required for a QPAM under Part V(a)(4) of PTCE 84–14. In this regard, the total assets under the management and control of ASA, during the period from November 8, 1999, through December 20, 1999, and under the management and control of ASA Counselors thereafter, have exceeded $50,000,000 largely due to the assets in the Account which either ASA or ASA Counselors have managed while serving as the Named Fiduciary in connection with PTE 99–46.

9. The applicants maintain that the proposed exemption would be protective of the rights of participants and beneficiaries of the Fund because of the on-going oversight of both the Trustees and the Department. In this regard, it is represented that under the terms of the Agreement, ASA Counselors periodically reports to both the Trustees and the Department. In the absence of the proposed exemption, ASA and ASA Counselors may be unable to exercise the degree of control over the financing and operations of the Project, as contemplated by the Department. The Fund has more than $4 billion in assets and has party in interest relationships with a variety of financial institutions and other service providers. In the opinion of the applicants, without the requested exemption, the pool of possible lenders and equity investors would be unduly restricted, because any financial institution that has pre-existing relations with the Fund would be excluded from dealing with the Account.

10. The proposed exemption contains conditions which are designed to ensure the presence of adequate safeguards to protect the interests of the Fund regarding the subject transactions. Except for the Diverse Clientele Test, as set forth in Part I(e) of PTCE 84–14, the proposed exemption contains conditions substantially similar to those which are set forth in Part I of PTCE 84–14. In this regard, the transactions which are the subject of this proposed exemption cannot be part of an agreement, arrangement, or understanding designed to benefit a party in interest. Furthermore, neither the Named Fiduciary nor a person related to the Named Fiduciary may engage in transactions with the Account.

11. In summary, the applicants (*i.e.,* ASA and ASA Counselors) represent that the transactions satisfy the statutory criteria for an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code because, among other things:

(a) The Named Fiduciary for the Account is an investment adviser registered under the Advisers Act with assets in excess of $50,000,000 under its management and control, and shareholders' equity in excess of $750,000;

(b) At the time of the transaction, the party in interest or its affiliate does not have, and during the preceding one (1) year has not exercised, the authority to appoint or terminate the Named Fiduciary, as a manager of the Fund's assets in the Account, or to negotiate the terms on behalf of the Fund (including renewals or modifications) of the management agreement;

(c) The subject transactions are not those which are described in PTCE 81–6; PTCE 83–1; or PTCE 82–87;

(d) The terms of the transactions were negotiated on behalf of the Account by, or under the authority and general direction of ASA until December 20, 1999, and thereafter have been and will continue to be negotiated by ASA Counselors; and either ASA or ASA Counselors (or a property manager acting in accordance with written guidelines established and administered by ASA until December 20, 1999, and thereafter by ASA Counselors) has made or will make the decision on behalf of the Account to enter into each transaction;

(e) The transactions are not part of an agreement, arrangement, or understanding designed to benefit a party in interest;

(f) At the time each transaction is entered into, renewed, or modified, the terms of the transaction are at least as favorable to the Account as the terms generally available in arm's length transactions between unrelated parties;

(g) Neither ASA nor ASA Counselors, nor any affiliate thereof, nor any owner, direct or indirect, of a 5 percent (5%) or more interest in ASA or ASA Counselors, is a person who, within the ten (10) years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of any felony, as set forth in Section I(g) of this proposed exemption;

(h) Neither ASA nor ASA Counselors, nor a person related thereto, engages in the transactions with the Account which are the subject of this proposed exemption; and

(i) Services, facilities, and any goods incidental thereto, provided by a place of public accommodation which is owned by the Account managed by the Named Fiduciary will be furnished to any party in interest on a basis which is comparable to the furnishing of such services, facilities and incidental goods to the general public.

**Notice to Interested Persons**

ASA will furnish a copy of the Notice of Proposed Exemption (the Notice) along with the supplemental statement (the Supplemental Statement), as described at 29 CFR § 2570.43(b)(2), to the Trustees of the Fund and to interested persons who commented in writing to the Department in connection with PTE 99–46, to inform such persons of the pendency of this exemption. In this regard, the Trustees of the Fund include the President, Secretary, and

Treasurer of the Fund, who are the three most senior officials of the Union whose members are participants in the Fund. Given the technical nature of the proposed exemption and the fact that participants of the Fund were individually notified in connection with the Department's consideration of PTE 99–46, the applicants believe that it should be sufficient to meet the Department's notification requirements if Union officials receive a copy of the Notice and the Supplemental Statement on behalf of the Union membership and that individual notification be provided only to those participants in the Fund who have shown an interest in the investment made in the Property to which the proposed exemption relates. A copy of the Notice, as it appears in the **Federal Register**, and a copy of the Supplemental Statement, will be provided, by first class mailing, within fifteen (15) days of the publication of the Notice in the **Federal Register**. Comments and requests for a hearing are due on or before 45 days from the date of publication of the Notice in the **Federal Register**.

*For Further Information Contact:* Ms. Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (this is not a toll-free number).

**United Food and Commercial Workers Union Local 789 and St. Paul Food Employers Health Care Plan (the Plan) Located in Bloomington, Minnesota**

[Application No. L–10872]

**Proposed Exemption**

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to the proposed purchase of prescription drugs, at discount prices, by Plan participants and beneficiaries, from Rainbow Pharmacies and Rainbow Foods Group, Inc. (RFG)(collectively, referred to as Rainbow), parties in interest with respect to the Plan, provided the following conditions are satisfied: (a) The terms of the transaction are at least as favorable to the Plan as those the Plan could obtain in a similar transaction with an unrelated party; (b) any decision by the Plan to enter into agreements governing the subject purchases will be made by Plan fiduciaries independent of Rainbow; (c) at least 50% of the preferred providers participating in the Preferred Pharmacy Network (PPN) which will be selling prescription drugs to the Plan's participants and beneficiaries will be unrelated to Rainbow; (d) Rainbow will provide prescription drugs to eligible persons under the identical conditions and for the identical amounts as under the Snyder Drug Stores, Inc. (Snyder) and SuperValue Pharmacies, Inc. (SPI) Agreements; and (e) the transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest.

**Summary of Facts and Representations**

1. The Plan is a multi-employer employee welfare benefit plan which has been in existence since 1966. The Plan was established to provide health and welfare benefits including life, sickness, accident and other benefits for participants and their beneficiaries. The Plan is directed by a ten person joint board of trustees comprised of five individuals selected to represent the United Food and Commercial Workers Union Local 789 and five individuals selected to represent the retail food employers. The Plan currently has approximately 5,922 participants and beneficiaries, and $11,500,000 in total assets.

2. RFG is a large retail grocer in Minnesota, incorporated in Nevada. In 1999, RFG began operating pharmacies in some of its grocery stores under the name Rainbow Pharmacies. Rainbow Pharmacies is part of RFG. RFG has filed a ''doing business as'' for the name Rainbow Pharmacies. The applicant represents that Rainbow is a party in interest to the Plan because they make contributions to the Plan on behalf of their employees that are participants in the Plan.

3. Under the Plan, participants have two alternative ways to receive the prescription drug benefit. One, a participant may have a prescription filled at an out-of-network pharmacy, pay the pharmacy's charge for the prescription at the time of dispensing, and submit a reimbursement claim to the Plan Administrator. The Plan would then reimburse the participant in full for the pharmacy's charge for the prescription, less the $5.00 participant co-payment. Two, a participant may have a prescription filled at a pharmacy within a preferred network, and pay only the $5.00 co-payment. The pharmacy then submits the claim for the remaining agreed-upon cost for the prescription directly to the Plan Administrator.

4. Effective January 1, 1994, the trustees of the Plan implemented the Plan's first prescription drug PPN in order to manage prescription drug price and utilization, manage related costs, provide ready participant access to courteous and reliable pharmacy services and professional advice, and to minimize or eliminate eligibility policing problems. The first Preferred Provider Agreement (the Agreement), the result of arm's-length negotiations, is between the Plan and Snyder. Snyder is not a party in interest with respect to the Plan.

5. Under the Agreement, Snyder agrees to provide prescription drugs to the Plan participants and their beneficiaries consistent with the Plan document and the Agreement at a specified reduced cost in exchange for the potential to realize an expanded customer base due to its status as a preferred pharmacy with respect to the Plan. The material elements of the Agreement are as follows:

(1) Snyder agrees to dispense covered prescription drugs, using generic drugs when available, within prescribed dosage units for one dispensing fee;

(2) The agreed upon dispensing fee is:

(a) The lesser of:

(i) The Usual and Customary charge for such prescription drug, or

(ii) The sum of the Drug Acquisition Cost plus the Professional Dispensing Fee.

The Drug Acquisition Cost for each prescription drug provided by the Pharmacy to an Eligible Person shall be defined to be the lesser of the following amounts:

(a) 90% of the average wholesale price (AWP) for such prescription drug; or

(b) The lowest stated maximum allowable cost (MAC) for such prescription drug on the most recently published pharmaceutical industry maximum allowable cost list, however, in no event will the MAC price exceed the Federal Upper Limits (as published by the Federal Government under the Federal Medical Entitlement Program).

The Professional Dispensing Fee shall equal $2.45 for each dispensing of a prescription drug in accordance with the Plan and the Agreement.

(3) Neither the Plan nor the participant is liable for the cost of any prescription drug dispensed contrary to the Agreement;

(4) Snyder will provide eligibility identification cards, maintain a current computerized eligibility list, and verify eligibility prior to dispensation;

(5) The Plan receives 67 ½ percent of formulary rebates received by Snyder based on the dispensing of each manufacturer's formulary drugs under the Plan and the Agreement. The Plan also receives quarterly formulary reports of formulary drugs dispensed and rebates received;

(6) The Plan has the right to inspect Snyder's records to audit claims and formulary rebates;

(7) Snyder must provide monthly prescription drug utilization reports; and

(8) The Plan has the right to terminate the Agreement upon a maximum of 60 days written notice.

6. The Plan's trustees have also negotiated an identical Agreement with SPI, a large retail grocer in Minnesota. It expanded the PPN by including the pharmacies located in Cub Foods (Cub) stores, a wholly owned subsidiary of SPI. The terms of the SPI Agreement are identical to those of the Snyder Agreement. The fees are determined by a combination of amounts objectively established by reference to industry resources and beyond the control or manipulation of SPI.

SPI and Cub are parties in interest with respect to the Plan because they make contributions to the Plan on behalf of their employees that are participants in the Plan. Accordingly, the applicant received an exemption, Prohibited Transaction Exemption (PTE) 95–61, 80 FR 37,689 (July 21, 1995).

Pursuant to PTE 95–61, the Plan entered into the Agreement with SPI to maximize the benefits that can be provided to participants and their beneficiaries. The reduction in costs paid by the Plan for prescription drugs enabled the Plan to maintain its current level of benefits to the participants and their beneficiaries. Expanding the PPN to include SPI, thereby increasing the utilization of the PPN, enabled the Plan to obtain additional discounts on prescriptions currently dispensed out-of-network. The Plan receives even greater savings due to the negotiated fees rather than the usual and customary billing of out-of-network pharmacies.

Specifically, the applicant represents that since its agreement with Snyder in 1994, the Plan has saved $53,188 for ingredient costs alone. The savings over the usual and customary billing of out-of-network pharmacies was estimated to be $90,000. Further, prescriptions dispensed by Snyder resulted in additional savings of $10,000. In reference to the SPI Agreement, during 1996, the applicant represents savings amounted to approximately $28,800 for ingredients alone. The savings over the usual and customary billing of out-of-network pharmacies is estimated to be approximately $36,000.

7. The applicant represents that the Plan wishes to enter into a preferred pharmacy agreement with Rainbow which is similar to the Agreements entered into between the Plan and Synder and SPI. The applicant represents that the financial terms of all three Agreements are identical and will not deviate in the future from the terms of the Snyder Agreement, including any amendments which may be made in the future to the Snyder Agreement.

The applicant further represents that pursuant to the Rainbow Agreement, Rainbow will provide prescription drugs to eligible persons under the identical conditions and for the identical amounts as under the Snyder and SPI Agreements.

The applicant notes that the only remuneration that will be paid to Rainbow by the Plan will be the fees as determined under the Agreement. Further, the fees are determined by the combination of amounts objectively established by reference to industry resources and beyond the control and/or manipulation of Rainbow.

8. The Plan seeks to maximize the benefits that can be provided to participants and their beneficiaries. Reducing the cost paid by the Plan for prescription drugs will enable the Plan to maintain its current level of benefits to the participants and their beneficiaries. Expanding the PPN to include Rainbow, thereby increasing the utilization of the PPN, will enable the Plan to obtain additional discounts on prescriptions currently dispensed out-of-network. The Plan will be able to receive even greater savings due to the negotiated fees rather than the usual and customary billing of out-of-network pharmacies. The applicant represents that it is projected that the Plan will realize an additional savings of $15,000 by the addition of Rainbow to the PPN. The requested exemption is also in the interest of the Plan because preferred pharmacies will be more conveniently located as a result of the expanded PPN.

9. The applicant represents that the PPN will be at least 50% composed of preferred providers that are not affiliated with Rainbow. All Plan decisions with respect to the PPN, including any decision to enter into the Agreement with Rainbow, will be made by Plan fiduciaries unrelated to Rainbow. In this regard, any fiduciary affiliated with Rainbow will remove himself or herself from all consideration by the Plan as to whether or not to engage in the transaction. Lastly, the applicant represents that the proposed transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest.

10. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 408(a) of the Act for the following reasons: (a) The terms of the transaction are at least as favorable to the Plan as those the Plan could obtain in a similar transaction with an unrelated party; (b) any decision by the Plan to enter into agreements governing the subject purchases will be made by Plan fiduciaries independent of Rainbow; (c) at least 50% of the preferred providers participating in the Preferred Pharmacy Network (PPN) which will be selling prescription drugs to the Plan's participants and beneficiaries will be unrelated to Rainbow; (d) Rainbow will provide prescription drugs to eligible persons under the identical conditions and for the identical amounts as under the Snyder Drug Stores, Inc.(Snyder) and SuperValue Pharmacies, Inc. (SPI) Agreements; and (e) the transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest.

*For Further Information Contact:* Mr. J. Martin Jara of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or

statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 20th day of June, 2000.

**Ivan Strasfeld,**

*Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.*

[FR Doc. 00–16019 Filed 6–23–00; 8:45 am]

**BILLING CODE 4510–29–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (00–072)]**

### Performance Review Board, Senior Executive Service (SES)

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of Membership of SES Performance Review Board.

**SUMMARY:** The Civil Service Reform Act of 1978, Pub. L. 95–454 (Section 405) requires that appointments of individual members to a Performance Review Board be published in the **Federal Register**.

The performance review function for the SES in the National Aeronautics and Space Administration is being performed by the NASA Performance Review Board (PRB) and the NASA Senior Executive Committee. The latter performs this function for senior executives who report directly to the Administrator or the Deputy Administrator and members of the PRB. The following individuals are serving on the Board and the Committee:

**Performance Review Board**

Ghassem Asrar, Chairperson, Associate Administrator for Earth Science, NASA Headquarters
John T. Pennington, Executive Secretary, Chief, Agency Executive Personnel Branch, NASA Headquarters
Joan S. Peterson, Director, Personnel Division, NASA Headquarters
Robert M. Stephens, Deputy General Counsel, NASA Headquarters
Oceola S. Hall, Deputy Associate Administrator for Equal Opportunity Programs, NASA Headquarters
Earle K. Huckins, Deputy Associate Administrator for Space Science NASA Headquarters
Susan H. Garman, Associate Director, NASA Johnson Space Center
William F. Townsend, Deputy Director, NASA Goddard Space Flight Center
Kathie L. Olsen, Chief Scientist, Office of the Administrator, NASA Headquarters
Paula M. Cleggett, Deputy Associate Administrator for Public Affairs, NASA Headquarters
Delma C. Freeman, Deputy Director, Langley Research Center
Carolyn S. Griner, Deputy Director, NASA Marshall Space Flight Center
Wallace C. Sawyer, Deputy Director, NASA Dryden Flight Research Center
Mark Craig, Deputy Director, NASA Stennis Space Center

**Senior Executive Committee**

Daniel R. Mulville, Chairperson, Associate Deputy Administrator, NASA Headquarters
Joan S. Peterson, Executive Secretary, Director, Personnel Division, NASA Headquarters
Lori B. Garver, Associate Administrator for Policy and Plans, NASA Headquarters
Ghassem Asrar, Associate Administrator for Earth Science, NASA Headquarters
Vicki A. Novak, Associate Administrator for Human Resources and Education, NASA Headquarters

**Daniel S. Goldin,**

*Administrator.*

[FR Doc. 00–16042 Filed 6–23–00; 8:45 am]

**BILLING CODE 7510–01–P**

## NATIONAL SCIENCE FOUNDATION

### Committee Management; Renewals

The NSF management officials having responsibility for the 29 advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

1. Special Emphasis Panel in Graduate Education (#57)
2. Special Emphasis Panel in Elementary, Secondary and Informal Education (#59)
3. Advisory Committee for Mathematical and Physical Sciences (#66)
4. Special Emphasis Panel in Engineering Education and Centers (#173)
5. Advisory Committee for Computer and Information Science and Engineering (#1115)
6. . Advisory Committee for Social, Behavioral and Economic Sciences (#1171)
7. Committee on Equal Opportunities in Science and Engineering (#1173)
8. Special Emphasis Panel in Advanced Computational Infrastructure and Research (#1185)
9. Special Emphasis Panel in Astronomical Sciences (#1186)
10. Special Emphasis Panel in Bioengineering and Environmental Systems (#1189)
11. Special Emphasis Panel in Chemical and Transport Systems (#1190)
12. Special Emphasis Panel in Chemistry (#1191)
13. Special Emphasis Panel in Computing—Communications Research (#1192)
14. Special Emphasis Panel in Experimental and Integrative Activities (#1193)
15. Special Emphasis Panel in Design, Manufacture and Industrial Innovation (#1194)
16. Special Emphasis Panel in Electrical and Communications Systems (#1196)
17. Special Emphasis Panel in Experimental Program to Stimulate Competitive Research (#1198)
18. Special Emphasis Panel in Human Resource Development (#1199)
19. Special Emphasis Panel in Information and Intelligent Systems (#1200)
30. Special Emphasis Panel in Materials Research (#1203)
21. Special Emphasis Panel in Mathematical Sciences (#1204)
22. Special Emphasis Panel in Civil and Mechanical Systems (#1205))
23. Special Emphasis Panel in Advanced Networking and Infrastructure Research (#1207)
24. Special Emphasis Panel in Physics (#1208)
25. Special Emphasis Panel in Polar Programs (#1209)
26. Special Emphasis Panel in Research, Evaluation and Communications (#1210)
27. Special Emphasis Panel in Undergraduate Education (#1214)
28. Special Emphasis Panel in Educational Systemic Reform (#1765)
29. Advisory Panel for Biomolecular Processes (#5138)

Authority for these Committees will expire on June 30, 2002, unless they are renewed. For more information, please contact Karen York, NSF, at (703) 306–1182.

Dated: June 21, 2000.

**Karen J. York,**

*Committee Management Officer.*

[FR Doc. 00–16092 Filed 6–23–00; 8:45 am]

BILLING CODE 7555–01–M

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for Biological Sciences; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

*Name:* Advisory Committee for Biological Sciences (1110): Committee of Visitors (COV) Review for Biomolecular Structure & Function and Biomolecular Processes in the Division of Molecular & Cellular Biosciences.

*Date and Time:* July, 10–12, 2000; 8:30 a.m. to 5 p.m. each day.

*Place:* National Science Foundation, Room 310, 4201 Wilson Boulevard, Arlington, Virginia 22230.

*Contact Person:* Maryanna Henkart, Division Director for Molecular and Cellular Biosciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, (703) 306–1440.

*Purpose of Meeting:* To carry out Committee of Visitors (COV) review, including program evaluation, GPRA assessments, and access to privileged materials.

*Type of Meeting:* Part open (see agenda below):

**Agenda**

*Closed:* July 10, (10 a.m.–5 p.m.); July 11 (8:30 a.m.–1 p.m., and 2 p.m.–5 p.m.); and July 12 (8:30 a.m.–1 p.m. and 2 p.m.–5 p.m.)—To review the merit review processes covering funding decisions made during the immediately preceding three fiscal years of programs in the Division of Molecular and Cellular Biosciences.

*Open:* July 10 (8:30 a.m.–10 a.m.); July 11 (1 p.m.–2 p.m.), and July 12 (1 p.m.–2 p.m.)—To assess the results of NSF program investments in the Molecular and Cellular Biosciences Division. This shall involve a discussion and review of results focused on NSF and grantee outputs and related outcomes achieved or realized during the preceding three fiscal years. These results may be based on NSF grants or other investments made in earlier years.

*Reason for Closing:* During the closed session, the Committee will be reviewing proposal actions that will include information of a proprietary nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: June 21, 2000.

**Karen L. York,**

*Committee Management Officer.*

[FR Doc. 00–16091 Filed 6–23–00; 8:45 am]

BILLING CODE 7555–01–M

## NORTHEAST DAIRY COMPACT COMMISSION

### Notice of Meeting

**AGENCY:** Northeast Dairy Compact Commission.

**ACTION:** Notice of Meeting.

**SUMMARY:** The Compact Commission will hold its regular monthly meeting to consider matters relating to administration and enforcement of the price regulation, including the reports and recommendations of the Commission's standing Committees.

**DATES:** The meeting will begin at 10:30 a.m. on Wednesday, July 12, 2000.

**ADDRESSES:** The meeting will be held at The Wayfarer Inn, 121 S. River Road, U.S. Route 3, Bedford, New Hampshire.

**FOR FURTHER INFORMATION CONTACT:** Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, VT 05602. Telephone (802) 229–1941.

**Authority:** 7 U.S.C. 7256.

Dated: June 20, 2000.

**Kenneth M. Becker,**

*Executive Director.*

[FR Doc. 00–16035 Filed 6–23–00; 8:45 am]

BILLING CODE 1650–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–321 and 50–366]**

### Southern Nuclear Operating Company; Facility Operating License Nos. DPR–57 and NPF–5; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by petition dated May 3, 2000, Mr. David A. Lochbaum, on behalf of the Union of Concerned Scientists, has requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Hatch), owned and operated by Southern Nuclear Operating Company, Inc., *et al.* (the licensee). The Petitioner requested that the NRC ask questions, via a demand for information, of the licensee concerning the liquid and gaseous radwaste systems at Hatch. As the basis for the request, the Petitioner contended that Hatch is being operated outside its design and licensing bases because the material condition of piping, tanks, and other components of the liquid and gaseous radwaste systems is not being properly inspected and maintained.

A copy of the petition is available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and is accessible electronically through the ADAMS Public Electronics Reading Room link at the NRC Web site (http://www/nrc.gov).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 20th day of June 2000.

**Roy P. Zimmerman,**

*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–16083 Filed 6–23–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–245]**

### Northeast Nuclear Energy Company; Millstone Nuclear Power Station, Unit 1 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of 10 CFR Part 73 for Facility Operating License No. DPR–21, issued to Northeast Nuclear Energy Company (the licensee) for the Millstone Nuclear Power Station, Unit 1, a permanently shutdown nuclear reactor facility located in Waterford, Connecticut.

**Environmental Assessment**

*Identification of Proposed Action*

The proposed action would modify security requirements to eliminate certain equipment, to relocate certain equipment, to modify certain procedures, and reduce the number of armed responders, due to the permanently shutdown and defueled status of the Millstone Nuclear Power Station, Unit 1.

The proposed action is in accordance with the licensee's application for exemption dated March 13, 2000, as supplemented by letter dated May 1, 2000. The requested action would grant an exemption from certain requirements of 10 CFR 73.55, ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.''

*The Need for the Proposed Action*

On July 21, 1998, the licensee informed the NRC that it had decided to permanently cease operation of Millstone Nuclear Power Station, Unit 1, and that all fuel had been permanently removed from the reactor. In accordance with 10 CFR 50.82(a)(2), the certifications in the letter modified the facility operating license to permanently withdraw the licensee's authority to operate the reactor and to load fuel into the reactor vessel. In this permanently shutdown condition, the facility poses a reduced risk to public health and safety. Because of this reduced risk, certain requirements of 10 CFR 73.55 are no longer appropriate. An exemption is required from portions of 10 CFR 73.55 to allow the licensee to implement a revised security plan that is appropriate for the permanently shutdown and defueled Millstone Nuclear Power Station, Unit 1.

*Environmental Impacts of the Proposed Action*

The NRC has completed its evaluation of the proposed action and concludes that granting an exemption to those portions of 10 CFR 73.55, identified above, would not have a significant impact on the environment, given the reduced consequences of an act of sabotage resulting in the release of radioactive material contained in the spent fuel at a defueled reactor site.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

*Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Millstone Nuclear Power Station, Unit 1.

*Agencies and Persons Contacted*

In accordance with its stated policy, on June 2, 2000, the staff consulted with the State of Connecticut official, Mr. Michael Firsick of the Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 13, 2000, as supplemented by letter dated May 1, 2000, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http:www.nrc.gov (the Electronic Reading Room).

Dated at Rockville, Maryland, this 20th day of June 2000.

For the Nuclear Regulatory Commission.

**David J. Wrona,**

*Project Manager, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–16084 Filed 6–23–00; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### NRC Coordination Meeting With Standards Development Organizations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The NRC has committed through its Strategic Plan to utilize consensus standards to increase the involvement of licensees and others in the NRC's regulatory development process, consistent with the provisions of Public Law (P.L.) 104–113, the National Technology and Transfer Act of 1995, and Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and Conformity Assessment.'' As part of this commitment, periodic coordination meetings with key standards development organizations (SDOs) and other stakeholders have been held to foster better communication of SDOs' ongoing activities, and NRC needs regarding standards development and their use. This notice provides the date and agenda for the next meeting.

**DATES:** July 27, 2000—The meeting will begin at 1:00 p.m. and will last approximately four hours. Attendees should enter the One White Flint North lobby by 12:45 p.m. to complete the required badging process.

**LOCATION:** U.S. Nuclear Regulatory Commission Headquarters, One White Flint North, 11555 Rockville Pike, Room O–4–B6, Rockville, Maryland 20852–2738.

**CONTACT:** Wallace E. Norris, USNRC, Telephone: (301) 415–6796; Fax: (301) 415–5074; Internet: wen@nrc.gov

**ATTENDANCE:** This meeting is open to the general public. All individuals planning to attend, including SDO representatives, are requested to preregister with Mr. Norris by telephone or e-mail and provide their name, affiliation, phone number, and e-mail address.

**PROGRAM:** The purpose of the meeting is to foster better communication between SDOs and NRC regarding standards development and use. By holding periodic coordination meetings, the SDOs will be able to describe their on-going and planned activities, and the NRC will be able to discuss activities and issues related to specific standards that are being developed or revised to meet its regulatory needs. The meeting will be coordinated by the NRC Standards Executive.

Among the topics to be discussed are:

1. The on-going review of NRC staff participation on standards committees.

2. Coordination between NRC and SDOs and the mechanism for initiating standards.

3. When overlapping standards exist or are being developed (*e.g.,* ASTM, ISO, CEN), how should the lead SDO be determined?

4. Use of consensus standards in Independent Spent Fuel Storage Facilities (ISFSI); how the NRC will use consensus standards in NRC licensing

activities for ISFSI and geologic repository disposal for high level nuclear waste and spent nuclear fuel.

Dated in Rockville, Maryland, this 19th day of June, 2000.

For the Nuclear Regulatory Commission,

**Michael E. Mayfield,**

*NRC Standards Executive.*

[FR Doc. 00–16082 Filed 6–23–00; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on July 12–14, 2000, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, October 14, 1999 (64 FR 55787).

**Wednesday, July 12, 2000**

*8:30 A.M.–8:35 A.M.:* Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 A.M.–10:30 A.M.: Activities Associated with Risk-Informing 10 CFR Part 50* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nuclear Energy Institute (NEI) regarding: (a) Proposed revision to 10 CFR 50.44 concerning combustible gas control system and advance notice of proposed rulemaking (10 CFR 50.69 and Appendix T) and (b) NEI letter dated January 19, 2000.

*10:45 A.M.–11:45 A.M.: Assessment of the Quality of Probabilistic Risk Assessments* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding a draft Commission paper on the assessment of the quality of probabilistic risk assessments (PRAs).

*1:15 P.M.–3:15 P.M.: Proposed Final ASME Standard for PRA Quality* (Open)—The Committee will hear presentations by and hold discussions with representatives of the American Society of Mechanical Engineers (ASME) regarding the proposed final ASME Standard for PRA quality.

*3:30 P.M.—4:30 P.M.: Break and Preparation of Draft ACRS Reports* (Open)—Cognizant ACRS members will prepare draft reports, as needed, for consideration by the full Committee.

*4:30 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports* (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. In addition, the Committee will discuss a proposed ACRS report on Safety Culture at Nuclear Power Plants.

**Thursday, July 13, 2000**

*8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 A.M.–9:30 A.M.: Annual Report to the Commission on the NRC Safety Research Program* (Open)—The Committee will discuss the format and content of the annual ACRS report to the Commission on the NRC Safety Research Program.

*9:30 A.M.–9:45 A.M.: Reconciliation of ACRS Comments and Recommendations* (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

*9:45 A.M.–10:30 A.M.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee* (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

*10:45 A.M.–11:45 A.M.: Break and Preparation of Draft ACRS Reports* (Open)—Cognizant ACRS members will prepare draft reports, as needed, for consideration by the full Committee.

*12:45 P.M.–6:00 P.M.: Discussion of Proposed ACRS Reports* (Open)—The Committee will discuss proposed ACRS reports.

**Friday, July 14, 2000**

*8:30 A.M.–11:30 A.M.:* Discussion of Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

*11:30 A.M.–1:30 P.M.: Discussion of Topics for Meeting with the NRC Commissioners* (Open)—The Committee will discuss topics for meeting with the NRC Commissioners scheduled for October 5, 2000.

*1:30 P.M.–2:00 P.M.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 28, 1999 (64 FR 52353). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Sam Duraiswamy, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Mr. Sam Duraiswamy prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. Sam Duraiswamy if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting Mr. Sam Duraiswamy (telephone 301/415–7364), between 7:30 a.m. and 4:15 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of

videoteleconferencing services is not guaranteed.

Dated: June 20, 2000.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 00–16085 Filed 6–23–00; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 11, 2000, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

*Tuesday, July 11, 2000—1:00 p.m. until the conclusion of business.*

The Subcommittee will discuss proposed ACRS activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: June 20, 2000.

**Sam Duraiswamy,**

*Acting Associate Director for Technical Support, ACRS/ACNW.*

[FR Doc. 00–16086 Filed 6–23–00; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL SERVICE

### Privacy Act of 1974, System of Records

**AGENCY:** Postal Service.

**ACTION:** Notice of modification to existing systems of records.

**SUMMARY:** The purpose of this document is to publish notice of modifications to existing system of records USPS 110.010, Property Management-Accountable Property Records; system of records USPS 140.020, Postage-Postage Evidencing System Records; and system of records USPS 170.010, Operational Data Collection System-Workload/Productivity Management Records. System USPS 110.010 is amended to add contractors to the ''Categories of Individuals'' segment and to enhance the description of records covered. System USPS 140.020 is amended to further limit the categories of records covered. Finally, system USPS 170.010 is amended to update the title and address of the system manager.

**DATES:** Any interested party may submit written comments on the proposed amendments and additions. This proposal will become effective without further notice on July 26, 2000, unless comments received on or before that date result in a contrary determination.

**ADDRESSES:** Written comments on this proposal should be mailed or delivered to Finance Administration, United States Postal Service, 475 L'Enfant Plaza SW Room 8141, Washington DC 20260–5202.

Copies of all written comments will be available at the above address for public inspection and photocopying between 8 a.m. and 4:45 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Alberta McKay, (202) 268–4048.

**SUPPLEMENTARY INFORMATION:** This notice proposes amendments to three Postal Service Privacy Act systems of records. System USPS 110.010, Property Management-Accountable Property Records, historically has covered and continues to cover information collected to issue badges granting access to Postal Service buildings and facilities, as well as to issue other accountable property records. Individuals that are issued badges include both employees and contractors. A recent review of the description of system USPS 110.010, prompted by the installation of a new access control system, found that contractors were not included in the description of individuals covered by the system. This notice expands that section of the system notice and enhances other sections to better describe the maintenance of the records covered.

System USPS 140.020, Postage-Postage Evidencing System Records, was amended in the **Federal Register** on January 3 (65 FR 142–143) to make it clear that the system covers both information collected through traditional paper-based postage meter licensing, as well as information collected through implementation of new technology postage evidencing systems. The categories of records covered by the system were expanded at that time to include the collection of destination delivery point (ZIP+4) information. It has been determined that only destinating five-digit ZIP Code information is needed to accomplish the system purpose; consequently, the description of the categories of records section is amended to reflect this limited collection.

Finally, the name and address of the system manager has been updated in system of records 170.010, Operational Data Collection System-Workload/Productivity Management Records, as a result of agency restructuring.

For the above reasons, the Postal Service proposes amending these systems as shown below:

**USPS 110.010**

**SYSTEM NAME:**

Property Management-Accountable Property Records, 110.010.

* * * * *

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

[CHANGE TO READ:] Employees and contractors who have access to Postal Service buildings and facilities and/or who are assigned accountable property. Database also contains the following categories:

—Building Tenants
—Advisory Committee Members (MTAC)
—Board of Governors
—Union Officials

**CATEGORIES OF RECORDS IN THE SYSTEM:**

[CHANGE TO READ:] Information needed to issue building access badges to employees and contractors. This information includes name, social security number, date of birth, home address, emergency contact name and telephone number, image (photograph); organization/office of assignment; employee's title and work number, supervisor's title and work number, and security badge issue information such as access level. The system also contains information controlling the issuance of accountable Postal Service property, such as equipment and controlled documents. That information includes name, social security number, equipment description, equipment serial numbers, and issuance date.

* * * * *

**PURPOSE(S):**

[CHANGE TO READ:] To ensure employee and building safety and security by controlling access to Postal Service buildings and facilities; and to protect Postal Service accountable property and equipment by controlling issuance.

* * * * *

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

* * * * *

**SAFEGUARDS:**

[CHANGE TO READ:] Hard copy records and computers containing information within this system of records are located in buildings and/or areas with controlled access. Information within computer systems is protected by computer security technology including the use of logon IDs and passwords. Access to automated and hard copy records is given on an official need-to-know basis.

**USPS 140.020**

**SYSTEM NAME:**

Postage-Postage Evidencing System Records, 140.020.

* * * * *

**CATEGORIES OF RECORDS IN THE SYSTEM:**

[CHANGE TO READ:] Customer name and address, change of address information, corporate business customer information (CBCIS) number, business profile information, estimated annual postage and annual percentage of mail by type, type of usage (customer, postal, or government), post office where mail is entered, license number, date of issuance, ascending and descending register values, device identification number, device model number, certificate serial number, amount and date of postage purchases, amount of unused postage refunded, contact telephone number, date, destinating five-digit ZIP Code and rate category of each indicium created, and transaction documents.

**USPS 170.010**

**SYSTEM NAME:**

Operations Data Collection Systems-Workload/Productivity Management Records, 170.010.

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

[CHANGE TO READ:] Senior Vice President Operations, United States Postal Service, 475 L'Enfant Plz SW, Washington DC 20260–2700.

(Real-Time Productivity Management System and Delivery Operations Information System)

Other Covered Systems—the department or facility head where such records are required.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 00–16008 Filed 6–23–00; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 35–27189]**

## Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 20, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 14, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After July 14, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

**Sierra Pacific Resources, et al. (70–9619)**

Sierra Pacific Resources (''Sierra Pacific''), 6100 Neil Road, Reno, Nevada 89511, a public utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2, and Portland General Electric Company (''PGE''), 121 SW Salmon Street, Portland, Oregon 97204, a wholly owned electric public utility subsidiary company of Enron Corporation (''Enron''), a holding company also claiming exemption under section 3(a)(1) of the Act by rule 2, have filed a joint application-declaration under sections 6(a), 7, 9(a), 10, and 11(b) of the Act and rule 54 under the Act.

Sierra Pacific proposes to acquire from Enron all of the issued and outstanding common stock of PGE and PGH II, Inc. (''PHG II''), an indirect subsidiary of Enron and an affiliate of PGE (the ''Merger''). Sierra Pacific and PGE (collectively, the ''Applicants'') also request authority to: (1) Continue to operate Sierra Pacific Power company (''SPPC''), Sierra Pacific's wholly owned public utility subsidiary, as a combination electric and gas public utility; (2) retain SPPC's existing water-utility business; (3) retain Sierra Pacific's, PGE's and PHG II's respective nonutility subsidiary businesses; and (4) issue securities in order to finance the Merger. Following the Merger, Sierra Pacific will register under section 5 of the act.[1]

Under the terms of a Stock Purchase Agreement dated as of November 5, 1999 (''Stock Purchase Agreement'') by and between Sierra Pacific and Enron, Enron will sell PGE and cause Portland General Holdings, Inc., Enron's wholly owned subsidiary, to sell PGH II, to Sierra Pacific for $2.1 billion in cash, reduced by the book value of certain obligations of Enron under an order of the Oregon Public Utilities Commission

[1] In a separate filing, Sierra Pacific also has asked the Commission to approve the formation of a subsidiary service company under section 13 of the Act and rules 88, 90 and 91 under the Act *See* File No. 70–9621. This separate filing is being noticed contemporaneously with the Merger notice.

(''Oregon PUC'').[2] Sierra Pacific will assume Enron's Merger Payment Obligations (as defined in footnote 2) effective as of the Merger's closing date.

*A. Description of the Parties*

1. Sierra Pacific

Sierra Pacific owns all of the common stock of two public utility companies: SPPC, a combination electric and gas public utility company based in Reno, Nevada; and Nevada Power Company (''Nevada Power''), an electric public utility company based in Las Vegas, Nevada. For the year ended December 31, 1999, Sierra Pacific's operating revenues on a consolidated basis were approximately $1.3 billion, of which $9.1 million are attributable to nonutility activities. Consolidated assets of Sierra Pacific at December 31, 1999 were approximately $5.2 billion, of which approximately $3.8 billion consisted of net utility plant and equipment. At December 31, 1999, Sierra Pacific and it subsidiary companies employed 3,250 employees, of which 1,430 were employed by SPPC and 1,677 by Nevada Power.

SPPC provides electric service to approximately 302,000 retail customers in northern Nevada and northeastern California. SPPC also sells electric power at wholesale. In the Reno/Sparks area of northwestern Nevada, SPPC distributes natural gas at retail to approximately 110,000 customers. For the year ended December 31, 1999, SPPC had total consolidated assets of approximately $2.1 billion, including net utility plant in service of $1.6 billion, consolidated utility operating revenues of approximately $764 million, and consolidated net income of approximately $66 million. During 1999, 83.9% of SPPC's revenues were from retail sales of electricity, natural gas and water in Nevada, 5.1% from retail sales of electricity in California, and 9.9% from wholesale sales of electricity and gas. SPPC's 1999 electric and gas operating revenues, which totaled $709 million, were comprised of its electric business ($609 million, or 86%) and its natural gas business ($100 million, or 14%). Of these 1999 electric and gas operating revenues, $644 million, or 91%, were from sales n Nevada and $65 million, or 9% were from sales in California. SPPC is subject to regulation by the Public Utilities Commission of Nevada (''Nevada PUC''), the California Public Utilities Commission (''California PUC''), and the Federal Energy Regulatory Commission (''FERC'') under the Federal Power Act.

SPPC also provides water service to about 71,000 customers. SPPC's 1999 water business operating revenues were $54.3 million.

Nevada Power provides retail electric service to approximately 566,700 customers in Clark county, Nevada, with limited additional service provided to the Federal Department of Energy (U.S. Government Test Site) in Nye County, Nevada. Nevada Power also sells electric power at wholesale. For the year ended December 31, 19991, Nevada Power and its subsidiary companies had total consolidated assets of approximately $3.4 billion, of which approximately $2.4 billion consisted of net electric plant and equipment, consolidated utility operating revenues of approximately $977 million, resulting in a net income of approximately $52 million. Nevada Power is subject to regulation by the Nevada PUC and the FERC.

Sierra Pacific is engaged in nonutility business through the following active subsidiary companies: Tuscarora Gas Pipeline Company (''Tuscarora''); Sierra Energy Company d/b/a e.three (''e.three''), Lands of Sierra, Inc.'' (''LOS''); Sierra Pacific Communications (''SPC''); Sierra Pacific Energy Company (''SPEC''); Commonsite Inc. (''Commonsite''); NVP Capital I (''NVP I''); NVP Capital II (NVP II); Nevada Electric Investment Company (''NEICO''); Northwind Las Vegas, LLC (''Northwind Las Vegas'');[3] Northwind Aladdin, LLC (''Northwind Aladdin''),[4] and e.three Custom Energy Solutions, LLC (''e.three CES'').[5]

Tuscarora was formed in 1993 for the purpose of entering into a partnership (the Tuscarora Gas Transmission Company, or ''TGTC'') with a subsidiary of TransCanada, a non-affiliated Canadian natural gas transportation company, to develop, construct and operate a natural gas pipeline to serve an expanding gas market in Reno, northern Nevada and northeastern California. In 1995, completed construction and began service of its 229-mile pipeline extending from Malin, Oregon to Reno, Nevada. As an interstate pipeline, TGTC provides only transmission service. Sierra Pacific has an investment of approximately $13.3 million in this subsidiary. During 1999, SPCC was the largest customer of TGTC, contributing 95% of TGTC's revenues of $19.3 million.

e.three provides energy-related products and services in commercial and industrial markets both inside and outside SPPC's service territory. e.three's services include: technology and efficiency improvements to lighting, heating, ventilation and air-conditioning equipment; installation or retrofit of controls and power quality systems; energy performance contracting; end-use services; and ongoing energy monitoring and verification services. LOS develops and manages SPPC nonutility property in Nevada and California.[6]

SPC was created to examine and pursue telecommunications opportunities that leverage existing skill sets of installing and deploying pipe and wire infrastructure. SPC presently has fiber optic assets deployed in the cities of Reno and Las Vegas. Sierra Pacific has filed an application with the Federal Communications Commission (''FCC'') to qualify SPC as an ''exempt telecommunications company'' under section 34 of the Act.[7]

SPEC was formed to market a package of technology and energy-related products and services in Nevada. For the year ended December 31, 1999, SPEC incurred net losses of $3.6 million.

Commonsite, NVPI and NVP II are non-profit subsidiary companies created to assist other business activities of Sierra Pacific. Commonsite is a Nevada corporation that owns the real estate occupied by Reid Gardner 4, a coal fired power plant owned jointly by Nevada Power and the California Department of Water Resources. NVP I and NVP II are Delaware trusts formed by Nevada Power for financing purposes.[8] NEICO is a Nevada corporation that has been inactive for several years. In recent months, it has obtained ownership intersts in: Northwind Las Vegas; Northwind Aladdin, and e.three CES. Northwind Las Vegas develops opportunities for district heating and cooling within Nevada. As discussed above, Northwind Aladdin will construct, own and operate district heating and cooling facilities at the Aladdin casino complex, currently under construction. e.three CES was

[2] The Oregon PUC imposed these obligation on Enron (''Enron's Merger Payment Obligations'') in its order dated June 4, 19997 approving Enron's acquisition of PGE.

[3] NEICO owns 50% of Northwind Las Vegas. UTT Nevada, Inc., an affiliate of Unicom, owns the other 50%.

[4] NEICO owns 25% of Northwind Aladdin and UTT Nevada, Inc. owns the other 75%.

[5] NEICO owns 50% of e.three CES and e-three owns the other half.

[6] In recent years, Sierra Pacific has sold several of the LOS properties. The properties remaining include only vacant land in Nevada and land leases in the Lake Tahoe region.

[7] The FCC did not issue an order denying SPC's application within sixty days of the application filing date. Therefore, under 47 CFR section 1.5004, the application is deemed granted with no further action by the FCC.

[8] NVP I and NVP II were used by Nevada Power to issue Quarterly Income Preferred Securities.

formed to enter into performance contracts and similar energy-related services in southern Nevada.

Sierra Pacific also has the following inactive nonutility subsidiary companies, all of which are incorporated in Nevada: Sierra Water Development Company, formerly engaged in water exploration; Sierra Gas Holdings Company, formerly engaged in gas and oil exploration; Great Basin Energy Company, which was formed to hold real estate for a proposed power plant that was never constructed; Genwal Coal Co.; Castle Valley Resources Inc., formerly the sales arm of Genwal Coal Co.; and Alkan Mining Company.[9]

2. PGE

PGE provides retail electric service to approximately 719,000 customers in northwestern Oregon. PGE also sells electric power at wholesale. For the year ended December 31, 1999, PGE had consolidated assets of approximately $3.2 billion, of which approximately $1.9 billion consisted of net electric plant and equipment, consolidated utility operating revenues of approximately $1.4 billion, and net income of approximately $128 million. At December 31, 1999, PGE employed approximately 2,787 employees. PGE is subject to regulation by the Oregon PUC and the FERC.

PGE owns all of the common stock of the following nonutility subsidiary companies, all of which are Oregon corporations: 121 SW Salmon Street Corporation (''Salmon Street''); Portland General Transport Corp. (''Portland General Transport''); and Salmon Springs Hospitality Group (''Salmon Springs'').

Salmon Street was formed in order to lease an office complex at the World Trade Center in Portland, Oregon and to sublease the complex to PGE to serve as PGE's headquarters. A wholly owned subsidiary of Salmon Street, World Trade Center Northwest Corporation, is an Oregon corporation that managers the World Trade Center and promotes international commerce. Portland General Transport was formed to sell segmented gas pipeline capacity and is currently inactive. Salmon Springs provides operations and catering services to PGE and, to the extent available, to third parties in meeting facilities of the World Trade Center Building Two.

3. PGH II

PGH II is engaged in developing several nonutility lines of business. As of December 31, 1999, PGH II had total assets of $1,560,000, revenues of $54,000, and a net less of $2,894.000.

PGH II holds a 99% ownership interest in the following companies, all of which the Oregon limited liability companies[10]: Columbia-Pacific Distribution Services Company, LLC (''Columbia-Pacific''); Enron Distribution Services Company, LLC (''EDS''); and Portland Energy Solutions Company, LLC (''PES'').

Columbia-Pacific, currently inactive, was established to provide operation and maintenance service for utility distributions systems. EDS, currently inactive, was established to hold investments in transmission and distribution services companies to be acquired. PES was established to develop opportunities in district heating and cooling in downtown Portland, Oregon.

PGH II also holds all the outstanding common stock of the following subsidiary companies and currently generate no material revenue and hold de minimis assets: Columbia-Willamette Development Company (''Columbia-Willamette''); Enron MicroClimates, Inc. (''Eron MicroClimates''); Portland General Distribution Company (''PGD''); Portland General Operations Company, Inc. (''PGO''); and Tule Hub Services Company (''Tule Hub'').

Columbia-Willamette formerly engaged in real estate development and is currently inactive. Enron MicroClimates was formed to design, own and operate heating, cooling and network infrastructure. PGD was formed to invest in companies providing distribution and network services, including operation and maintenance services for utility distribution systems. PGO provides consulting services to global markets regarding design, maintenance, management, and financing for electric and telecommunications facilities. Tule Hub was formed to engage in electric trading hub transaction information management, and is currently inactive.

*B. Description of the Merger*

Under the Stock Purchase Agreement described above, Sierra Pacific will acquire from Enron all of the issued and outstanding common stock of PGE and PGH II for a consideration of $2.1 billion in an all-cash transaction. The Merger is not subject to the approval of the shareholders of PGE, PHG II, Enron or Sierra Pacific.

Sierra Pacific's acquisition of PGE and PGH II will result in a substantial level of goodwill equal to the excess of consideration to be paid to Enron over the net value of assets acquired. Sierra Pacific estimates this goodwill to be approximately $845 million, which will be amortized at the holding company level over a forty-year period.

*C. Description of Merger-Related Financing*

Sierra Pacific proposes to finance the purchase price of PGE and PGH II through a combination of various types of short-term debt, long-term debt, and other financing transactions.[11] Specifically, for a period beginning with the effective date of the Commission's Order in this matter and ending one year from the date of that Order (''Authorization Period''), Sierra Pacific request authority to: (1) Issue long-term debt securities, short-term debt securities, commercial paper, hybrid securities, and other debt securities for cash; (2) enter into transactions to manage interest rate risk (''hedging transactions''); and (3) enter into credit facilities or loan agreements with commercial or investment banks, both for purposes of direct borrowings and as back-up for commercial paper programs. The aggregate amount of short-term and long-term debt outstanding at any one time to finance the Merger will not exceed $2.1 billion.

1. General Conditions of Financing

Sierra Pacific requests authority to engage in various financing and related transactions during the Authorization Period for which the specific terms and conditions are not at this time known. The authorization is sought subject to the conditions stated above and to the following conditions: (1) The effective cost of money on long-term debt borrowing occurring under this authorization will not exceed 300 basis points over the comparable term U.S. Treasury securities; (2) the effective cost of money on short-term debt borrowing occurring under this authorization will not exceed 300 basis point over the comparable term London Interbank Offered Rate (''LIBOR''); (3) the maturity

[9] Nevada Power recently created several Nevada limited liability companies that have conducted no business activities but are in good standing. They are: Nevada Power Services, LLC; Nevada Power Choices, LLC; Nevada Power Solutions, LLC; Las Vegas Energy, LLC; Nevada Solutions, LLC; Power Choice, LLC; Nevada Power Energy Services, LLC; and Nevada Choices, LLC. It is anticipated that one or more of these companies will engage in competitive energy markets.

[10] The remaining 1% interest is held by Portland General Distribution Company, a wholly owned direct subsidiary of PGH II described below.

[11] Sierra Pacific will file a separate application-declaration to request additional financing authority to maintain existing financing facilities after the Merger and to meet the capital requirements for the Sierra Pacific system after the Merger (''Financing Application'').

of indebtness will not exceed 50 years; (4) the underwriting fees, commissions, or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of a security in this matter will not exceed 5% of the principal or total amount of the security being issued; and (5) the proceeds from the sale of securities issued under this authorization will be used (a) to pay the consideration required in order to consummate the Merger, (b) to refinance short-term debt originally incurred to raise all or a portion of the Merger consideration; or (c) for general corporate purposes.

2. Short-Term Debt Financing

Sierra Pacific requests Commission authorization during the Authorization Period to issue short-term debt securities in an amount not to exceed $2.1 billion, consisting of financing for the Merger consideration. Sierra Pacific anticipates that most of the Merger consideration will be funded temporarily through the use of short-term debt.[12] The short-term debt will consist of one or more of the following: bank borrowings, commercial paper, money market notes, floating rate or variable notes, all as described below.

Sierra Pacific currently maintains a committed line of credit for $300 million under an unsecured revolving credit facility with Mellon Bank, First Union National Bank and Wells Fargo, as syndication agents (''Credit Facility''). This Credit Facility, the amount of which is included in the overall authorization requested above, may be used for working capital and general corporate purposes, including for commercial paper backup. It is anticipated that all or a portion of the short-term debt used to fund the Merger will be borrowed by Sierra Pacific either through this credit Facility or through one or more new facilities to be entered into prior to the Merger.

Sierra Pacific also may sell commercial paper in established domestic or European commercial paper markets to provide temporary funding of the Merger consideration. This commercial paper would be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. It is expected that the dealers acquiring commercial paper from Sierra Pacific will reoffer such paper at a discount to corporate, institutional and, with respect to European commercial paper, individual investors. The commercial paper programs will be backed up by the Credit Facility and by any new credit facilities to be entered into by Sierra Pacific, as discussed above.

Sierra Pacific also may incur short-term debt through the issuance of instruments customarily referred to as ''money market notes,'' ''floating rate notes'' or ''variable rate notes.'' This type of debt is usually issued under a fiscal and paying agency agreement or similar type of agreement, rather than through an indenture, and bears an interest rate that is either (a) tied to a customary interest rate index such as LIBOR which is adjusted on a periodic basis or (b) set by an auction process. The maturity of these notes may vary from less than one year to up to three years. Consequently, Sierra Pacific may also issue these notes as long-term debt. The specific terms of any notes issued under this authorization will be determined by Sierra Pacific at the time of issuance.

3. Long-Term Debt Financing

Sierra Pacific requests Commission authorization during the Authorization Period to issue long-term debt securities in an amount not to exceed $2.1 billion, as stated above. Sierra Pacific intends to use this long-term debt exclusively to refinance short-term debt originally incurred to finance the Merger. These long-term debt securities would include (a) unsecured notes, debentures, medium-term notes, or other debt securities issued under an indenture (''Sierra Pacific Indenture'')[13], (b) instruments customarily referred to as ''money market notes,'' ''floating rate notes,'' or ''variable rate notes,'' as described above, if those notes have a maturity of greater than one year[14], or (c) long-term loans from commercial or investment banks under credit facilities or loan agreements.[15]

4. Other Securities

In addition to the specific securities described above, Sierra Pacific may also find it necessary or desirable to minimize financing costs or to obtain new capital under then-existing market conditions to issue and sell other types of securities during the Authorization Period. The issuance of any of these securities would be subject to the aggregate $2.1 billion limit on short-term and long-term debt and to the overall conditions on financing authorization discussed above.

5. Interest Rate Risk Management Devices

Sierra Pacific requests authority to enter into, perform, purchase and sell financial instruments intended to manage the volatility of interest rates, including but not limited to interest rate swaps, caps, floors, collars and forward agreements or any other similar agreements. Sierra Pacific would employ interest rate swaps as a means of prudently managing the risk associated with any of its outstanding debt issued under this authorization by, in effect, synthetically (a) covering variable rate debt to fixed rate debt; (b) covering fixed rate debt to variable rate debt; (c) limiting the impact of changes in interest rates resulting from variable rate debt; and (d) providing an option to enter into interest rate swap transactions in future periods for planned issuances of debt securities. In no case will the notional principal amount of any interest rate swap exceed that of the underlying debt instrument and related interest rate exposure.[16]

[12] This short-term debt will be paid off in part with the proceeds of the planned divestiture of SPPC's and Nevada Power's electric generation assets, and the sale of common equity or certain non-core assets, with the balance refinanced within the Authorization Period through long-term debt exclusively to refinance short-term debt or other securities from the divestiture of certain non-core assets. Sierra Pacific will request authority to issue additional common equity in its Financing Application.

[13] Sierra Pacific filed a form of the Sierra Pacific Indenture with the Commission as part of a universal shelf registration on June 8, 1999 (Registration No. 333–80149). Applicants state that the Sierra Pacific Indenture will permit the issuance of a wide variety of unsecured debt securities in one or more series. The Sierra Pacific Indenture will contain numerous variable terms, such as principal amount, interest rate, redemption terms, sinking funds, currency of payment, denominations, and events of default. The Sierra Pacific Indenture contains no negative covenants or restrictions.

On May 9, 2000, Sierra Pacific issued of $300 million of notes under this shelf registration. Proceeds from this issuance were used to retire the remaining balance of short-term debt incurred to complete the merger of Sierra Pacific and Nevada Power. Sierra Pacific expects to file a new universal shelf registration for the issuance of long-term debt authorized under this application-declaration and may continue to use the Sierra Pacific Indenture for any such issuance.

[14] On April 20, 2000, Sierra Pacific also issued $300 million of floating rate notes that are not related to this authorization request. The proceeds of this issuance were used: (1) to reduce Nevada Power's debt and strengthen its capitalization; and (2) to reduce short term debt at the holding company level incurred to complete the merger of Sierra Pacific and Nevada Power.

[15] Borrowings from banks and other financial institutions will be unsecured debt and will rank in pari passu with debt securities issued under the Sierra Pacific Indenture and the short-term credit facilities described above. Specific terms of any borrowings will be determined by Sierra Pacific at the time of issuance and will comply with the parameters on financing authorization set forth above.

[16] Sierra Pacific will only enter into interest rate swap agreements with counter parties whose senior debt ratings, as published by Standard & Poor's, a Division of The McGraw-Hill Companies, are greater than or equal to ''BBB+'', or an equivalent rating from Moody's Investors Service, Inc., Fitch IBCA, Inc., or Duff & Phelps Credit Rating Co.

**Sierra Pacific Resources (70–9621)**

Sierra Pacific Resources (''Sierra Pacific''), 6100 Neil Road, Reno, Nevada 89511, a public utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2 (''Applicant''), has filed an application under section 13(b) of the Act and rules 87, 88, 90, and 91 under the Act.

In this filing, Sierra Pacific requests the Commission to authorize: (1) The designation of Sierra Pacific Resource Services Company (''SPRSC'') as a subsidiary service company in accordance with rule 88 under the Act; (2) the provision of services by SPRSC to the Sierra Pacific system following Sierra Pacific's proposed merger with Portland General Electric Company (''PGE'') (described below) and the registration of Sierra Pacific as a holding company under the Act; and (3) certain lease transactions among associate companies within the Sierra Pacific system after the Merger, as described below. Sierra Pacific further requests that the Commission find that SPRSC is organized and will conduct its operations so as to meet the requirements of section 13 of the Act and the rules under the Act.[17]

In a separate filing, Sierra Pacific and PGE, a wholly owned electric public utility subsidiary company of Enron Corporation, a public utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2, seek approvals relating to the proposed acquisition by Sierra Pacific of PGE and PGE's affiliate, PGH II, Inc. (''PGH II'') (''Merger U–1'').[18] Sierra Pacific will register as a holding company under the Act upon the consummation of the acquisition (''Merger'') described in the Merger U–1.

Following the consummation of the Merger, Sierra Pacific proposes to have three operating public utility company subsidiaries (the ''Utility Subsidiaries''): (1) Sierra Pacific Power Company (''SPPC''), a public utility company that provides retail electric service in Nevada and northeastern California, sells electric power at wholesale, distributes natural gas at retail in northwestern Nevada, and provides water service; (2) Nevada Power Company (''Nevada Power''), a public utility company that provides retail electric service predominantly to the residents of Clark County, Nevada, provides limited service to the Federal Department of Energy (U.S. Government Test Site) in Nye County, Nevada, and sells electric power at wholesale; and (3) PGE, a public utility company that provides retail electric power service in northwestern Oregon and sells electric power at wholesale.[19]

Sierra Pacific's direct and indirect nonutility subsidiary companies following the Merger are to include the following: PGH II;[20] Tuscarora Gas Pipeline Company; Sierra Energy Company d/b/a e.three (''e.three''); Lands of Sierra, Inc.; Sierra Pacific Communications Company; Sierra Pacific Energy Company; Commonsite Inc. (''Commonsite''); NVP Capital I (''NPV I''); NVP Capital II (''NVP II''); Nevada Electric Investment Company (''NEICO''); Northwind Las Vegas, LLC (''Northwind Las Vegas'')[21]; Northwind Aladdin, LLC (''Northwind Aladdin'')[22]; e.three CES Custom Energy Solutions, LLC (''e.three CES'').[23]; 121 SW Salmon Street Corporation; Portland General Transport Corp.; and Salmon Springs Hospitality Group (collectively, with the Utility Subsidiaries, the ''Subsidiaries'').

Sierra Pacific also owns the following inactive subsidiary companies: Sierra Water Development Company; Sierra Gas Holdings Company; Great Basin Energy Company; Genwal Coal Co.; Castle Valley Resources, Inc.; and Alkan Mining Company. In addition, Nevada Power recently created several Nevada limited liability companies that have conducted no business activities but are in good standing. They are: Nevada Power Services, LLC; Nevada Power Choices, LLC; Nevada Power Solutions, LLC; Las Vegas Energy, LLC; Nevada Solutions, LLC; Power Choice, LLC; Nevada Power Energy Services, LLC; and Nevada Choices, LLC.

After the Merger, SPRSC proposes to provide the Sierra Pacific system companies with a variety of administrative, management, enegineering, construction, environmental and support services, either directly or through agreements with associate or nonassociate companies, as needed.[24] SPRSC will enter into a services agreement with each of the Subsidiaries (the ''Services Agreement''). The Services Agreement will be administered in accordance with the Act and the rules under the Act, and the cost of services payable to SPRSC under the Services Agreement will be computed in accordance with the applicable rules under the Act and with appropriate accounting standards. Sierra Pacific presently expects that SPRSC will be staffed with personnel drawn from Sierra Pacific, SPPC, Nevada Power, and PGE. Sierra Pacific has not yet determined the numbers of SPRSC personnel that will be drawn from each of these companies.

SPRSC's authorized capital stock will consist of 100 shares of common stock, no par value per share, issued to Sierra Pacific for $1,000. upon consummation of the Merger, Sierra Pacific will hold all issued and outstanding shares of SPRSC common stock. Sierra Pacific will describe any debt financing for SPRSC in a separate application-declaration to be filed with the Commission dealing with the financing of the post-Merger Sierra Pacific holding company system.

Sierra Pacific further requests authorization under section 13(b) of the Act for the Subsidiaries to enter, from time to time, into leases of office or other space with other associate companies. These leases will comply with the requirements of rules 87, 90 and 91 under the Act. The Utility Subsidiaries may also provide to one another any services, construction, or goods as are reasonably required to meet a breakdown or other emergency in accordance with the standards of rule 87(b)(2) under the Act. These services will be provided at cost in accordance with the standards of the Act and rules 87, 90 and 91 under the Act.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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[17] In addition, Sierra Pacific requests that the Commission find that this application is deemed to constitute a filing on Form U–13–1 for purposes of rule 88 under the Act, or, alternatively, that the filing of a Form U–13–1 is not necessary under the Act.

[18] *See* File No. 70–9619. The Commission's notice describing this filing is included elsewhere in this Release.

[19] A more complete description of the Utility Subsidiaries is set forth in the Merger U–1.

[20] PGH II is engaged in developing several nonutility businesses through the following subsidiary companies: Columbia-Willamette Development Company; Enron MicroClimates, Inc.; Portland General Distribution Company; Portland General Operations Company, Inc.; and Tule Hub Services Company. These subsidiary companies currently generate no material revenue and hold *de minimis* assets. PGH II also holds a 99% ownership interest in the following limited liability companies: Columbia-Pacific Distribution Services Company, LLC; Eron Distribution Services Company, LLC; and Portland Energy Solutions Company.

[21] NEICO owns 50% of Northwind Las Vegas. UTT Nevada. Inc., an affiliate of Unicom Thermal Technologies, Inc., owns the other 50%.

[22] NEICO owns 25% of Northwind Aladdin and UTT Nevada. Inc. owns the other 75%.

[23] NEICO owns 50% of e.three CES and e-three owns the other half.

[24] Before the consummation of the Merger, SPRSC will be incorporated in the State of Nevada to serve as the service company for the Sierra Pacific system.

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 24503; 812–11978]**

## Ark Funds, et al.; Notice of Application

June 19, 2000.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

**SUMMARY OF THE APPLICATION:** Applicants request an order to permit the proposed reorganizations of four series (the ''Acquired Funds'') of The Govett Funds, Inc. (''Govett Funds'') with and into four series of ARK Funds (the ''Acquiring Funds,'' and together with the Acquired Funds, the ''Funds''). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

**APPLICANTS:** ARK Funds, Govett Funds, Allied Investment Advisers, Inc. (''AIA''), and AIB Govett, Inc. (''AIB Govett'').

**FILING DATES:** The application was filed on February 14, 2000. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 10, 2000, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Allfirst Trust Company, N.A., 25 S. Charles Street, Baltimore, Maryland 21201.

**FOR FURTHER INFORMATION CONTACT:** Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or Janet M. Grossnickle, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

### Applicants' Representations

1. Ark Funds, a Massachusetts business trust, is registered under the Act as an open-end management investment company and currently offers twenty-four series (the ''Ark Portfolios''). Three of the ARK Portfolios, the ARK Income Portfolio, ARK Small-Cap Equity Portfolio (''Ark Small-Cap Portfolio''), and ARK International Equity Selection Portfolio (''ARK International Selection Portfolio''), are Acquiring Funds. ARK Funds is organizing two new ARK Portfolios, the ARK International Equity Portfolio and ARK Emerging Markets Equity Portfolio, which also will be Acquiring Funds. AIA, a Maryland corporation, is an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser to each Ark Portfolio. AIA is a wholly owned subsidiary of Allfirst Bank, which is a wholly-owned subsidiary of Allfirst Financial Inc. (''Allfirst Financial''), a bank holding company, which is a wholly-owned subsidiary of Allied Irish Banks, p.l.c. (''Allied Irish''). The Allfirst Financial Inc. Pension Plan (the ''Allfirst Plan''), which is a defined benefit plan maintained for the benefit of the employees of Allfirst Financial and its subsidiaries, is the beneficial owner of more than 5% of the outstanding voting securities of two Acquiring Funds. Moreover, Allfirst Trust Company, N.A. (''Allfirst Trust''), an indirect wholly-owned subsidiary of Allfirst Financial, owns, in a fiduciary capacity, more than 25% of the outstanding voting shares of each Acquiring Fund.

2. Govett Funds, a Maryland corporation, is registered under the Act as an open-end management investment company and currently offers five series (each a ''Govett Fund''), four of which are Acquired Funds: the Govett Global Income Fund, Govett Smaller Companies Fund, Govett International Equity Fund, and Govett Emerging Markets Equity Fund. AIB Govett, a Maryland corporation, is an investment adviser registered under the Advisers Act and serves as investment adviser to each of the Govett Funds. AIB Govett Asset Management Limited (''AIB Govett London''), is an investment adviser registered under the Advisers Act and serves as sub-adviser to each of the Govett Funds. AIB Govett is a wholly-owned subsidiary of, and AIB Govett London is a majority-owned subsidiary of AIB Asset Management Holding Limited, which is an indirect majority-owned subsidiary of Allied Irish.

3. On December 10, 1999 and January 5, 2000, the board of trustees of the Acquiring Funds and the board of directors of the Acquired Funds (together, the ''Boards''), respectively, including all the trustees and directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), unanimously approved an agreement and plan of reorganization between the Funds (the ''Reorganization Agreement''). Under the Reorganization Agreement, each Acquiring Fund will acquire all the assets and stated liabilities of the corresponding Acquired Fund in exchange for shares of the Acquiring Fund (the ''Reorganizations'').[1] The shares of each Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the Acquired Fund's shares determined as of the close of business on the business day immediately preceding the day of the closing of each Reorganization (''Closing Date''). The value of the assets of the Funds will be determined according to the Funds' then-current prospectuses and statements of additional information. As soon as reasonably practical after the Closing Date, each Acquired Fund will be liquidated by the distribution of the Acquiring Fund shares *pro rata* to the shareholders of the Acquired Fund.

4. Applicants state that the investment objectives, policies and restrictions of each Acquired Fund are generally similar (and in the case of the Govett International Equity Fund and

[1] Under the Reorganization Agreement, the Acquired Funds will merge into the Acquiring Funds as follows: Govett Global Income Fund will merge into ARK Income Portfolio, Govett Smaller Companies Fund into ARK Small-Cap Portfolio, Govett Emerging Market Equity Fund into ARK Emerging Markets Equity Portfolio and Govett International Equity Fund into ARK International Selection Portfolio. The Govett International Equity Fund merger into the ARK International Selection Portfolio is contingent upon proposed changes being approved by shareholders of the ARK International Selection Portfolio at a meeting on July 10, 2000. The proposals include increasing the investment advisory fees payable by the ARK International Selection Portfolio from 0.65% to 1.00% and revising its principal investment strategy so that it is substantially identical to that of the Govett International Equity Fund. In the event these proposals are not approved. Govett International Equity Fund would be reorganized into the ARK International Equity Portfolio, which has investment objectives, policies and restrictions substantially identical to those of the Govett International Equity Fund.

Govett Emerging Markets Funds, substantially identical) to those of the corresponding Acquiring Fund. Each Fund offer Institutional Class Shares which are not subject to any sales charge or a distribution fee adopted under rule 12b–1 under the Act. The Acquired Fund's Institutional Class Shares are subject to redemption and exchange fees (as permitted by rule 11a–3 under the Act). The Acquired Funds offer Class A Retail Class Shares, which are not subject to a front-end sales load but are subject to rule 12b–1 distribution, redemption and exchange fees (as permitted by rule 11a–3 under the Act). The Acquiring Funds offer Retail Class A Shares, which are subject to a front-end sales load and rule 12b–1 distribution fee, but not a redemption or exchange fee. Shareholders of Institutional Class and Retail Shares of the Acquired Funds will receive Institutional and Retail Shares, respectively, of the corresponding Acquiring Fund. No sales charges will be imposed in connection with the Reorganizations. AIB Govett will bear the costs associated with the Reorganizations.

5. The Boards, including all of the Independent Directors, determined that the participation of each Acquiring and Acquired Fund in a Reorganization was in the best interests of the shareholders of each Fund, and that the interests of the shareholders of each Fund would not be diluted as a result of the Reorganization. In assessing the Reorganizations, the Boards considered various factors, including: (a) The investment objectives, policies and limitations of each of the Acquired Funds and their compatibility with those of the corresponding Acquiring Funds; (b) the investment advisory and other fees paid by each of the Acquiring Funds and the historical and projected expenses of each of the Acquiring Funds; (c) the terms and conditions of the Reorganization Agreement; and (d) the anticipated tax consequences of the Reorganizations for the Funds and their shareholders. In addition, the board of directors of the Govett Funds considered: (a) The historical investment performance records of the Funds; (b) the capabilities, practices and resources of AIA and ARK Funds' other service providers; and (c) the shareholders services offered by ARK Funds.

6. The Reorganizations are subject to a number of conditions precedent, including that: (a) The shareholders of each Acquired Fund will have approved the Reorganization; (b) the Funds will have received opinions of counsel that the Reorganizations will be tax-free for the Funds and their shareholders; and (c) applicants will have received from the Commission an exemption from section 17(a) of the Act for the Reorganizations. The Reorganization Agreement may be terminated and the Reorganizations abandoned at any time prior to the Closing Date by the Boards. Applicants agree not to make any material changes to the Reorganization Agreement without prior Commission approval.

7. A registration statement on Form N–14 with respect to the Reorganizations, containing a proxy statement/prospectus, was filed with the Commission on May 18, 2000 and will be mailed to shareholders of the Acquired Funds during the week of June 19, 2000. A shareholders meeting of the Acquired Funds is scheduled for July 10, 2000.

**Applicants' Legal Analysis**

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied. Applicants believe that rule 17a–8 may not be available to exempt the Reorganizations because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that because Allfirst Plan owns in the aggregate 5% of certain Acquiring Funds and Allfirst Financial has an indirect pecuniary interest in the performance of the assets held by the Allfirst Plan. Allfirst Financial may be deemed to be an affiliated person of these Acquiring Funds. In addition, applicants state that because Allfirst Trust owns in the aggregate, as a fiduciary, more than 25% of the outstanding voting securities of the Acquiring Funds, it may be deemed to be an affiliated person of the Acquiring Funds. Because of the common ownership of Allfirst Financial and AIB Govett, each Acquiring Fund might be deemed to be an affiliated person of an affiliated person of the corresponding Acquired Fund.

3. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

4. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganizations. Applicants submit that the Reorganizations satisfy the standards of section 17(b) of the Act. Applicants state that the terms of the Reorganizations are reasonable and fair and do not involve overreaching. Applicants state that the investment objectives and policies of each Acquired Fund are generally similar (and in the case of the Govett International Equity Fund and Govett Emerging Markets Funds, substantially identical) to those of its corresponding Acquiring Fund. Applicants also state that the Boards, including all of the Independent Directors, have made the requisite determinations that the participation of the Acquired and Acquiring Funds in the Reorganizations is in the best interests of each Fund and that such participation will not dilute the interests of the existing shareholders of each Fund. In addition, applicants state that the Reorganizations will be on the basis of relative net asset value.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–16025 Filed 6–23–00; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42957; File No. SR–Amex–00–32]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Amending Its Rules To Mandate Decimal Pricing Testing

June 19, 2000.

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 June 12, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Amex has designated this proposal as one concerned solely with the administration of the Exchange under Section 19(b)(3)(A)(iii) of the Act,[3] which renders the proposal effective upon filing with 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

The Exchange proposes to adopt Amex Rule 431 relating to mandatory decimal pricing testing. In addition, the Exchange proposes to rescind Rule 430 (Mandatory Participation in Year 2000 Testing).

The text of the proposed rule change is available upon request from the Amex or the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On January 28, 2000, the Commission issued an order (''January 28 Order'') directing the securities markets to begin phasing in decimal pricing by July 3, 2000.[4] The Commission subsequently suspended all deadlines set forth in the January 28 Order and stated its intention to issue a new order for the implementation schedule of decimal pricing.[5] On June 8, 2000, the Commission issued an order (''June 8 Order'') directing the securities markets to begin phasing in decimal pricing no later than September 5, 2000.[6]

Proposed Amex Rule 431 requires members and member organizations to conduct or participate in decimal pricing testing in order to facilitate compliance with the Commission's June 8 Order, as well as with any subsequent Commission directives relating to implementation of decimal pricing.

Proposed Amex Rule 431 requires members and member organizations to participate in or conduct, in a manner and frequency to be prescribed by the Exchange, testing of their computer systems to ascertain the compatibility of those systems with decimal pricing.

In addition, the proposed rule requires members and member organizations to provide such reports about the required tests as the Exchange may prescribe. Members and member organizations will be responsible for maintaining adequate documentation of any testing required by this rule, as well as the results of such testing, for examination by the Exchange. Members and member organizations subject to the rule who fail to test as required or to file any required reports would be subject to disciplinary action by the Exchange.

The Exchange also proposes to rescind Amex Rule 430 relating to mandatory Year 2000 testing because such testing has been completed and the rule is no longer necessary.

2. Statutory Basis

The Exchange believes proposed Amex Rule 431, whose purpose is to ensure the participation of Exchange members in important testing prior to the securities industry's conversion to decimal pricing, is consistent with Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5)[8] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and in that it is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

[4] Securities Exchange Act Release No. 42360 (Jan. 28, 2000), 65 FR 5003 (Feb. 2, 2000).

[5] Securities Exchange Act Release No. 42685 (Apr. 13, 2000), 65 FR 21046 (Apr. 19, 2000).

[6] Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Amex does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change is concerned solely with the administration of the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(3) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(3).

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, 450 Fifth Street, NW, Washington, DC Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Ame–00–32 and should be submitted by July 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–16028 Filed 6–23–00; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42959; File No. SR–CHX–00–21]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Amending Its Rules To Mandate Decimal Price Testing

June 20, 2000.

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 June 14, 2000, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The CHX has designated this proposal as one concerned solely with the administration of the CHX under Section 19(b)(3)(A)(iii) of the Act,[3] which renders the proposal effective upon filing with 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

The Exchange proposes to add a new rule (Article XI, Rule 12) to require Exchange members to participate in such decimalization-related testing as the Exchange may mandate and to maintain documentation of that testing. The text of the proposed rule change is available upon request from the CHX or the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose, of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Although the starting dates and specific details of an industry-wide implementation plan have not yet been finalized, national securities exchanges and other market participants have begun testing the systems involved in the conversion to decimal-based trading. The CHX, in cooperation with the Commission, the Securities Industry Association, and other self-regulatory organizations, has been participating in this important testing effort. The proposed rule described in this filing requires CHX member firms to participate in such decimalization-related testing as the Exchange may require and to maintain documentation, including the results, of that testing.[4]

Specifically, the proposed new rule requires CHX members to participate in any point-to-point and industry-wide computer testing that the Exchange may require.[5] It also requires members to prepare and submit such reports relating required testing as the Exchange may request, and to retain other testing-related documentation for inspection by the Exchange.

These requirements are similar to those that the Exchange imposed in 1999 as part of its Year 2000 testing effort, and are similar to those currently being proposed by at least one other national securities exchange. This proposed new rule shall expire upon the full implementation of decimal pricing.

2. Statutory Basis

The CHX believes the proposed rule is consistent with the requirements of the Act and the rules and regulations thereunder governing national securities exchanges, and, in particular, with the requirements of Section 6(b) of the Act.[6] Specifically, the CHX believes the proposed rule is consistent with Section 6(b)(5) of the Act[7] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change is concerned solely with the administration of Exchange, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and subparagraph (f)(3) of Rule 19b–4 thereunder.[9] At any time within 60 days of the filing of such proposed rule

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] The Exchange will file additional decimalization-related rule changes within the time frame required by the Commission's recent order. *See* Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000). This proposed rule change has been submitted first to ensure that member firms receive appropriate notice of the contemplated testing requirements.

[5] Point-to-point tests are conducted between a member's system (or the systems of the member's service provider) and the Exchange's systems. Industry-wide testing involves a wide variety of industry participants, including national securities exchange, registered clearing corporations and broker-dealers. The Exchange currently intends to require each of its active members (or their service providers) to participate in point-to-point test, and may require certain members to participate in industry-wide testing.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(3).

change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and nay 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, 450 Fifth Street, NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–00–21 and should be submitted by July 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–16027 Filed 6–23–00; 8:45 am]

**BILLING CODE 8010–01–M**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42961; File No. SR–MBSCC–00–01]**

## Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Letters of Credit

June 20, 2000.

Pursuant to Section 19(b)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on April 11, 2000, the MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') and on June 13, 2000, amended the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by MBSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change will prohibit MBSCC from accepting a letter of credit from a participant when the participant or an affiliate of that participant issues the letter of credit.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, MBSCC 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. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to modify Article IV, Rule 2, Section 9 of MBSCC's rules, which governs deposits of letters of credit by participants to the participants fund for margin purposes. This rule provides that MBSCC may approve as the issuer of a letter of credit any domestic or foreign bank or trust company meeting the requirements set forth in procedures adopted from time to time by MBSCC.

The proposed rule change will amend Article IV, Rule 2, Section 9 by adding a new subsection (b) which will prohibit MBSCC from accepting a letter of credit from a participant that is issued by that participant or by an affiliate of that participant.[3] The proposed rule change will codify MBSCC's historical practice of requiring that a letter of credit deposited by a participant to the participants fund be issued by an approved letter of credit issuer other than the participant or an affiliate of the participant.

The proposed rule change also makes a technical modification to Article III, Rule 5 of MBSCC's rules to correct the reference contained within such rule from ''Rule 4'' to ''Rule 5.''

MBSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(A)[4] of the Act and the rules and regulations thereunder because it is designed to assure the safeguarding of securities and funds that are in the custody or control of MBSCC or for which it is responsible.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

MBSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments relating to the proposed rule change have been solicited or received. MBSCC will notify the Commission of any written comments received by MBSCC.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five 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 ninety 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

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by MBSCC.

[3] Article I, Rule 1 of MBSCC's rules will be amended as follows. ''The term an 'Affiliate' of, or a person 'Affiliated' with, a specified person, means a person that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. For purposes of this definition, the term 'control' (including the terms 'controls,' 'controlled by,' and 'under common control with') means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.''

[4] 15 U.S.C. 78q–1(b)(3)(A).

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at MBSCC's principal office. All submissions should refer to File No. SR–MBSCC–00–01 and should be submitted by July 17, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–16064 Filed 6–23–00; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42958; File No. SR–NASD–00–20]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to Rule 2320(g) and Rule 3110(b)

June 20, 2000.

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 April 13, 2000, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend NASD Rules 2320(g) and 3110(b): (1) To require that members executing a customer order in a non-Nasdaq security contact and obtain quotations from three dealers (or all dealers if three or less) to determine the best inter-dealer market for security, unless two or more priced quotations are displayed in an inter-dealer quotation system that permits quotation updates on a real-time basis (such as the OTC Bulletin Board (''OTCBB'') or the electronic pink sheets); (2) to require that members that display priced quotations for the same non-Nasdaq security in two or more quotation mediums that permit quotation updates on a real-time basis display the same priced quotations for the security in each quotation medium; (3) to eliminate the requirement that a member indicate on the order ticket for each transaction in a non-Nasdaq security the name of each broker-dealer contacted and the quotations received, if two or more priced quotations are displayed and NASD Regulation has access, on a historical basis, to the quotation data; and (4) to define the terms *inter-dealer quotation system* and *quotation medium* for the purposes of the proposed rule change.

Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

**2320. Best Execution and Interpositioning**

(a) through (f) No Change.

(g)(1) *Unless two or more priced quotations for a non-Nasdaq security (as defined in the Rule 6700 Series) are displayed in an inter-dealer quotation system that permits quotation updates on a real-time basis*, [I]*i*n any transaction for or with a customer pertaining to the execution of an order in a non-Nasdaq security [(as defined in the Rule 6700 Series)], a member or person associated with a member, shall contact and obtain quotations from three dealers (or all dealers if three or less) to determine the best inter-dealer market for the subject security.

(2) *Members that display priced quotations on a real-time basis for a non-Nasdaq security in two or more quotation mediums that permit quotation updates on a real-time basis must display the same priced quotations for the security in each medium.*

*(3) For purposes of this paragraph, the term ''inter-dealer quotation system'' means any system of general circulation to brokers or dealers that regularly disseminates quotations of identified brokers or dealers.*

*(4) For purposes of this paragraph, the term ''quotation medium'' means any inter-dealer quotation system or any publication or electronic communications network or other device that is used by brokers or dealers to make known to others their interest in transactions in any security, including offers to buy or sell at a stated price or otherwise, or invitations of offers to buy or sell.*

(*5*) Pursuant to the Rule 9600 Series, the staff, for good cause shown, after taking into consideration all relevant factors, may exempt any transaction or classes of transactions, either unconditionally or on specified terms, from any or all of the provisions of this paragraph if it determines that such exemption is consistent with the purpose of this Rule, the protection of investors, and the public interest.

* * * * *

**3110. Books and Records**

(a) No Change

(b)(1) No Change

(b)(2) A person associated with a member shall indicate on the memorandum for each transaction in a non-Nasdaq security, as that term is defined in the Rule 6700 Series, the name of each dealer contacted and the quotations received to determine the best inter-dealer market*; however, the requirements of this subparagraph shall not apply if two or more priced quotations for the security are displayed in an inter-dealer quotation system, as defined in Rule 2320(g), that permits quotation updates on a real-time basis for which NASD Regulation has access to historical quotation information.*

* * * * *

### 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 Regulation included statements concerning the purposes 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 Regulation 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

Rule 2320(g) (''Three Quote Rule'' was originally adopted on May 2, 1988 [3] as an amendment to the NASD's best execution interpretation. Specifically, the Three Quote Rule requires members that execute transactions in non-Nasdaq securities on behalf of customers to contact a minimum of three dealers (or all dealers if three or fewer) and obtain quotations in determining the best inter-dealer market.[4] The intent of the Three Quote Rule is to create a standard to help ensure that members fulfill their best execution responsibilities to customers in non-Nasdaq securities, particularly in transactions involving relatively illiquid securities with non-transparent prices. The Three Quote Rule is a minimum standard, and compliance with the rule, in and of itself, does not mean a member has met its best execution obligations. Best execution requires each member to use reasonable diligence to ascertain the best inter-dealer market for a security, and to buy or sell in that market so that the resultant price to the customer is as favorable as possible under prevailing market conditions. [5]

Since the adoption of the Three Quote Rule, the market for non-Nasdaq securities has changed dramatically. For example, from 1996 to 1999, the OTCBB experienced growth of 72 percent in market maker positions, 421 percent in average daily share volume, and 65 percent in average daily dollar volume.

Given the rapid growth in the market for non-Nasdaq securities, NASD Regulation believes that the current Three Quote Rule often hinders, rather than furthers, investor protection by causing significant delays in obtaining executions of customer orders. The costs associated with delayed executions resulting from compliance with the Three Quote Rule are not outweighed by the benefits of obtaining three telephone quotes. Indeed, NASD Regulation believes that the informational value of three telephone quotes is significantly less than the informational value of two transparent, firm quotes in terms of obtaining best execution for customers.

Therefore, NASD Regulation is proposing that Rule 2320(g) be amended to require members to obtain quotations from three dealers (or all dealers if three or less) only when there are fewer than two priced quotations displayed in an inter-dealer quotation system that permits quotation updates on a real-time basis (such as the OTCBB or the electronic pink sheets). The proposed rule change defines the term *inter-dealer quotation system* as any system of general circulation to brokers or dealers that regularly disseminates quotations of identified brokers or dealers.

NASD Regulation believes the proposed rule change would enhance investor protection by reducing execution delays, while improving the quality of information relied upon by firms in seeking to obtain best execution. As with the current rule, the proposed rule change would not limit or change a member's general best execution obligations.

The proposed rule change also would require members that display priced quotations for the same security in two or more quotation mediums that permit quotation updates on a real-time basis to display the same priced quotations in each system. The proposed rule change defines the term *quotation medium* as any inter-dealer quotation system or any publication or electronic communications network or other device that is used by brokers or dealers to make known to others their interest in transactions in any security, including offers to buy or sell at a stated price or otherwise, or invitations of offers to buy or sell.

NASD Regulation believes that members' displaying different priced quotations in different quotation mediums for the same security can be confusing and misleading to other market participants and, more importantly, to public investors. Moreover, requiring that members display consistent priced quotations in multiple quotation mediums would enhance the ability of other market participants to ascertain the best inter-dealer market for a security.

In addition, Rule 3110(b)(2) currently requires that members indicate on the order ticket for each transaction in a non-Nasdaq security the name of each dealer contacted and the quotations received to determine the best inter-dealer market. Under the proposed rule change, members would not be required to note such information on the order ticket if two or more priced quotations are displayed and NASD Regulations has access to the quotation data. As a result, the proposed rule change would alleviate certain recordkeeping burdens for members where NASD Regulation can validate and confirm compliance with applicable requirements directly through its internal historical data. Currently, NASD Regulation has such data with respect to the OTCBB securities, although it does not have access to historical quotation data for the electronic pink sheets.[6]

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act [7] which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change would reduce the time and effort necessary in contacting three market makers when there are at least two priced quotations displayed, while potentially enabling members to provide customers better executions in non-Nasdaq securities than is provided under existing requirements.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

NASD Regulation does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

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 NASD 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.

[3] *See* Exchange Act Release No. 25637 (May 2, 1988), 53 FR 16488 (May 9, 1988).

[4] Currently, if three firm quotations are displayed, a broker-dealer is not required to call the three market makers to verify the firm quotations that are displayed on the screen. A broker-dealer need note on the order ticket only the identity of the broker-dealers and the firm quotations displayed.

[5] *See* NASD Rule 2320(a).

[6] NASD Regulation currently is soliciting comment on a rule proposal that would require members to record and report their quotation data in the electronic pink sheets or similar quotation systems to NASD Regulations. *See* NASD Notice to Members 00–17 (Mar. 2000).

[7] 15 U.S.C. 78o–3(b)(6).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 the File No. SR–NASD–00–20 and should be submitted by July 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–16063 Filed 6–23–00; 8:45 am]

**BILLING CODE 8010–01–M**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42954; File No. SR–NYSE–100–8]**

## Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Relating to the Exchange's Pride-Based Continued Listing Standards

June 19, 2000.

Pursuant to Section 19(b)(12) of the Securities Exchange Act [1] of 1934 (''Act''), and Rule 19b–4 thereunder,[2] notice is hereby given that on February 22, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') 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 the Exchange. On May 3, 2000, the Exchange submitted 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 and to grant accelerated approval to the proposed rule change and Amendment No. 1.

### 1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of an amendment to Section 802.01C of the *Listed Company Manual* (''Manual'') of the Exchange and corresponding changes to NYSE Rule 499. The text of the proposed rule change, as amended, is as follows. New text is *italicized.*

**NYSE Listed Company Manual**

*Section 8*

*Suspension and Delisting*

801.00 Policy

* * * * *

802.00 Continued Listing

802.01 Continued Listing Criteria

* * * * *

802.01C. Price Criteria

Average closing price of a security is less than $1.00 over a consecutive 30-trading-day period (D).

(D) Once notified, the company must bring its average share price back above $1.00 by the later of its subsequent annual meeting date or six months following receipt of the notification. If this is the only criteria that makes the company below the Exchange's continued listing standards, the procedures outlined in Paras. 802.20 and 802.03 do not apply. The company must, however, notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure this deficiency or be subject to suspension and delisting procedures. In the event that at the expiration of the cure period, a $1.00 average share price over the preceding 30 trading days is not attained, the Exchange will commence suspension and delisting procedures. Notwithstanding the foregoing, if the subject security *is not the primary trading common stock of the company (e.g., a tracking stock or a preferred class) or* is a stock listed under the Affiliated Company standard where the parent remains in ''control'' as that term is used in that standard, the Exchange may determine whether to apply the Price Criteria to such security after evaluating the financial status of the company and/or the parent/affiliated company, as the case may be.

* * * * *

**NYSE Rules**

**Delisting of Securities**

**Suspension From Dealings or Removal From List by Action of the Exchange**

The aim of the New York Stock Exchange is to provide the foremost auction market for securities of well-established companies in which there is a broad public interest and ownership.

Rule 499.

* * * * *

.20 NUMERICAL AND OTHER CRITERIA—WHEN A COMPANY FALLS BELOW ANY OF THESE CRITERIA, THE EXCHANGE MAY GIVE CONSIDERATION TO ANY DEFINITIVE ACTION THAT A COMPANY WOULD PROPOSE TO TAKE THAT WOULD BRING IT ABOVE CONTINUED LISTING STANDARDS.

* * * * *

9. Average closing price of a security is less than $1.00 over a consecutive 30 trading-day period. Once notified, the company must bring its average share price back above $1.00 by the later of its subsequent annual meeting date or six months following receipt of the notification. If this is the only criteria that makes the company below the Exchange's continued listing standards, the procedures outlined in Paras. .50 and .60 of this Rule 499 do not apply. The company must, however notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure this deficiency. In the event that at the expiration of the cure period, a $1.00 average share price over the preceding 30 trading days is not attained, the Exchange will commence suspension and delisting procedures. *Notwithstanding the foregoing, if the subject security is not the primary trading common stock of the company (e.g., a tracking stock or a preferred class) or is a stock listed under the Affiliated Company standard where the parent remains in ''control'' as that term is used in that standard, the Exchange may determine whether to apply the Price Criteria to such security after evaluating the financial status of the company and/or the parent/affiliated company, as the case may be.*[1]

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17i CFR 240.19b–4.

[3] In Amendment No. 1, the NYSE made technical changes to the proposed rule text. *See* letter from Daniel P. Odell, Assistant Secretary, NYSE, to Nancy dSanow, Senior Special Counsel, Division of Market Regulation, SEC, dated May 1, 2000 (''Amendment No. 1'').

[4] When the Exchange amended Section 802.01C of the Manual in SR–NYSE–00–12, the Exchange did not amend NYSE Rule 499 to reflect the

Continued

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange recently adopted and revised a series of standards and procedures regarding the continued listing of securities for both domestic and non-U.S. issuers.[5] One of the new standards is a price-based criterion of $1 over the span of 30 consecutive days. Once a company triggers this standard, it must re-establish its trading price above $1 within the later of its next annual meeting date or six months of notification. The Exchange represents that since the implementation of this new standard, several issuers (both listed and prospective) have questioned whether the standard is applicable to classes of securities other than the company's primary trading vehicle.[6]

Therefore, the Exchange proposes to modify the price-based criteria so that the Exchange will have the discretion to determine whether the $1 standard is applicable to all of an issuer's listed classes of securities. In making such a determination, the Exchange would evaluate the overall financial status of a company, including the price of the primary trading common stock and its other listed securities.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with the requirement under Section 6(b)(5)[7] of the Act that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchanges does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–00–08 and should be submitted by July 17, 2000.

**IV. Commission's Findings and Order Granting Approval of Proposed Rule Change**

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b)(5),[8] because the proposed rule is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.[9]

Specifically, the Commission believes that the proposed rule change to the Exchange's price-based standard will allow for a more appropriate application of the criteria to classes of stock other than a company's primary trading stock by allowing the Exchange to evaluate the overall financial status of a company before determining whether the $1 standard should apply. The Commission further believes that the proposed rule change, as amended, is consistent with the Exchange's obligation to remove impediments to and perfect the mechanism of a free and open market. The Commission believes that the proposed rule will increase the Exchange's ability to retain listings that would otherwise not qualify under its current price-based criteria.

The NYSE has requested that the Commission find good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The NYSE contends that accelerated approval would enable the Exchange to uniformly implement the amendments to all affected listed companies and not disadvantage those possibly subject to the rule during the full commentary period. The Commission believes that it is reasonable to grant accelerated approval to allow the Exchange to uniformly implement the amendments to all affected listed companies at the same time, thereby eliminating any confusion or the possibility of inconsistent application of the new rule. Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,[10] to approve the proposed rule change, as amended, on an accelerated basis.

*It Is Therefore Ordered,* pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NYSE–00–08), as amended, is hereby approved on an accelerated basis.

corresponding changes. Accordingly, the Exchange proposes to do so now. *See* Securities Exchange Act Release No. 42671 (April 12, 2000), 65 FR 21227 (April 20, 2000).

[5] *See* Securities Exchange Act Release No. 42194 (December 1, 1999), 64 FR 69311 (December 10, 1999).

[6] For example, a company with a Class A common stock trading at $30 and several tracking stocks, one of which is below $1, would take the position that it is inappropriate to apply the price-based standard to this tracking stock because the low price of that stock is not indicative of the overall financial health and valuation of the company. In addition, the Exchange believes that delisting only the one low-priced security would result in the company's equity securities being traded in multiple markets, a situation undesirable to most issuers.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[11] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–16026 Filed 6–23–00; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42960; File No. SR–NYSE–00–26]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Creating New Rule 438 Mandating Decimal Pricing Testing and Rescinding Rule 437 Relating to Year 2000 Testing

June 20, 2000.

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 June 14, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange '') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The NYSE has designated this proposal as one concerned solely with the administration of the NYSE under Section 19(b)(3)(A)(iii) of the Act,[3] which renders the proposal effective upon filing with 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

The proposal consists of the adoption of new NYSE Rule 438 (''Participation in Decimal Conversion Testing'') and the rescission of NYSE Rule 437 (''Participation in Year 2000 Testing''). The text of the proposed rule change is available upon request from the NYSE or the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On January 28, 2000, the Commission issued an order (''January 28 Order'')[4] requiring the NYSE, the other national securities exchanges, and the National Association of Securities Dealers, Inc. (the ''Participants'') to take certain steps necessary to facilitate a safe and orderly transition to decimal pricing in the United States securities markets. The initial phase-in date of this process was originally scheduled for July 3, 2000.

In order to prepare for the implementation of decimal pricing industry-wide, the Commission's January 28 Order required, among other things, that the Participants jointly submit a ''Decimals Implementation Plan'' by April 14, 2000. The Commission additionally required each Participant to submit by April 28, 2000, such proposed rule changes as would be necessary to administer the Decimals Implementation Plan.

On April 13, 2000, the Commission suspended by order[5] the deadlines prescribed by the January 28 Order and solicited public comment on the feasibility of several alternatives for implementing decimal trading (including the possibility of trading exchange-listed securities in penny or nickel increments by September 4, 2000). On June 8, 2000, the Commission subsequently issued an order[6] directing the securities markets to begin phasing in decimal pricing no later than September 5, 2000.

In order to assist and coordinate the efforts of the NYSE's membership to ensure a smooth transition to decimalization, new NYSE Rule 438 authorizes the Exchange to require members and member organizations, in a manner and frequency to be prescribed by the Exchange, to participate in decimal pricing testing. The Exchange is prepared to adjust its testing and implementation dates in accordance with Commission directives.

NYSE Rule 438.10 provides the Exchange authority to exempt either individual or categories of members and member organizations from some or all of the testing requirements. Further, NYSE rule 438.20 requires members and member organizations to maintain adequate documentation of such tests as may be required, including results of those tests, which must be made available to the Exchange for examination. NYSE rule 438.30 provides that the rule shall expire automatically upon the full implementation of decimal pricing.

In addition to creating the foregoing new rule, the Exchange proposes to delete NYSE Rule 437, authorizing the Exchange to require the membership's participation in testing related to potential computer problems associated with the year 2000 date change. Further testing in this regard is no longer necessary.

2. Statutory Basis

The NYSE believes proposed NYSE Rule 438, which is designed to authorize the Exchange to require its members and member organizations, in a manner and frequency prescribed by the Exchange, to participate in testing of computer systems in preparation for the implementation of decimal pricing, is consistent with Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5)[8] in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] Securities Exchange Act Release No. 42360 (Jan. 28, 2000), 65 FR 5003 (Feb. 2, 2000).

[5] Securities Exchange Act Release No. 42685 (Apr. 13, 2000), 65 FR 21046 (Apr. 19, 2000).

[6] Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change is concerned solely with the administration of the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(3) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–00–26 and should be submitted by July 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–16029 Filed 6–23–00; 8:45 am]

**BILLING CODE 8010–01–M**

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(3).

[11] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3265]**

### State of Texas

Tarrant County and the contiguous counties of Dallas, Denton, Ellis, Johnson, Parker, and Wise in the State of Texas constitute a disaster area as a result of damages caused by severe thunderstorms and flooding that occurred on June 3–4, 2000. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 18, 2000 and for economic injury until the close of business on March 19, 2001 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| Homeowners With Credit Available Elsewhere | 7.375 |
| Homeowners Without Credit Available Elsewhere | 3.687 |
| Businesses With Credit Available Elsewhere | 8.000 |
| Businesses and Non-Profit Organizations Without Credit Available Elsewhere | 4.000 |
| Others (Including Non-Profit Organizations) With Credit Available Elsewhere | 6.750 |
| For Economic Injury Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |

The numbers assigned to this disaster are 326511 for physical damage and 9H5500 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 19, 2000.

**Kris Swedin,**

*Acting Administrator.*

[FR Doc. 00–16109 Filed 6–23–00; 8:45 am]

**BILLING CODE 8025–01–P**

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities; Emergency Consideration Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, the Social Security Administration (SSA) is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is requesting emergency consideration from OMB by July 12, 2000, of the information collections listed below.

1. Representative Payee Report-Special Veterans Benefits-0960-NEW. The information collected on form SSA–2001 is used to determine whether payments certified to the representative payee have been used properly and whether the representative payee continues to demonstrate strong concern for the beneficiary's best interests. The form will be completed annually by all representative payees receiving special veterans benefits (SVB) payments on behalf of beneficiaries outside the United States. It will also be required at anytime SSA has reason to believe that the representative payee could be misusing the payments. Respondents are representative payees of veterans receiving SVB Payments under title VIII.

*Number of Respondents:* 200

*Frequency of Response:* 1

*Average Burden Per Response:* 10 minutes

*Estimated Annual Burden:* 33 hours

**Background Information**

In November 1999, Congress passed the Foster Care Independence Act, and on December 14, 1999, the President signed it into law (Pub. L. 106–169). An important part of this legislation, section 251, creates a new title VIII of the Social Security Act. Title VIII provides for a program of special benefits for certain World War II veterans.

As a part of the title VIII administration, Section 807(a) of PL 106–169, also provides that, if the Social Security Administration determines that it is not in the best interest of the beneficiary to receive benefits directly, payments may be certified to a relative, another person or an organization interested in or concerned about the welfare of the beneficiary. These individuals or organizations are called representative payees.

You can obtain a copy of the collection instruments and/or OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

*(SSA Address)*

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

Dated: June 21, 2000.

**Frederick W. Brickenkamp,**

*Reports Clearance Officer.*

[FR Doc. 00–16119 Filed 6–23–00; 8:45 am]

**BILLING CODE 4190–29–U**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Generalized System of Preferences (GSP); Copper Wire Bars From Russia

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of correction.

**SUMMARY:** The purpose of this notice is to correct the Harmonized Tariff Schedule of the United States (HTS) to reflect the correct treatment under the GSP program of refined copper wire bars imported from Russia.

**FOR FURTHER INFORMATION CONTACT:** GSP subcommittee, Office of the United States Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20508 (Tel. 202/395–6971).

**EFFECTIVE DATE:** The correction made in this notice is effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1999.

**SUPPLEMENTARY INFORMATION:** The GSP program grants duty-free treatment to designated eligible articles that are imported from certain developing countries. The GSP program is authorized by Title V of the Trade Act of 1974, as amended (''Trade Act'') (19 U.S.C. 2461 *et seq*). Each year, certain products from eligible countries are excluded from GSP treatment to the extent imports of those products have exceeded the applicable competitive need limits (CNL) during the previous year (19 U.S.C. 2463 (2)(A)). Based on import data from the U.S. Bureau of Census showing that imports of refined copper wire bars (HTS subheading 7403.12.00) from Russia had exceeded the applicable CNL, the President revoked duty-free treatment for those articles beginning July 1, 1999. (Proclamation 206, 64 FR 36229, 36234 (July 2, 1999); 64 FR 36952 (July 8, 1999)). Revised Bureau of Census statistics show that imports of copper wire bars from Russia did not exceed the applicable CNL and thus that duty-free treatment for those articles should not have been withdrawn.

Accordingly, pursuant to authority granted by Congress to the President in section 604 of the Trade Act (19 U.S.C. 2483) and delegated by the President to the United States Trade Representative in Proclamation 6969 of January 27, 1997 (62 FR 4415), effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1999, general note 4(d) to the Harmonized Tariff Schedule of the United States is modified by striking ''; Russia'' after subheading 7403.12.00 in the enumeration of designated beneficiary countries that are ineligible to receive GSP benefits for that tariff provision.

Requests for application of the tariff modification and duty treatment provided for herein must contain sufficient information to enable the Customs Service to identify each relevant entry (including but not limited to the entry number for the shipment concerned).

**Charlene Barshefsky,**

*United States Trade Representative.*

[FR Doc. 00–16061 Filed 6–23–00; 8:45 am]

**BILLING CODE 3190–01–M**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Senior Executive Service Performance Review Boards Membership

**AGENCY:** Department of Transportation (DOT).

**ACTION:** Notice of Performance Review Board (PRB) appointments.

**SUMMARY:** DOT publishes the names of the persons selected to serve on the various Departmental PRBs as required by 5 U.S.C. 4314(c)(4).

**FOR FURTHER INFORMATION CONTACT:** John Budnick, Acting Departmental Director, Office of Human Resource Management, (202) 366–4088.

**SUPPLEMENTARY INFORMATION:** The persons named below have been selected to serve on one or more Departmental PRBs.

Issued in Washington, DC, on June 21, 2000.

**Melissa J. Allen,**

*Assistant Secretary for Administration.*

**Federal Railroad Administration**

Jane H. Bachner, Deputy Associate Administrator for Industry and Intermodal Policy, Federal Railroad Administration
Ray Rogers, Associate Administrator for Administration and Finance, Federal Railroad Administration
Charles White, Associate Administrator for Policy and Program Development, Federal Railroad Administration
Rosalind A. Knapp, Deputy General Counsel, Office of the Secretary
Jerry Hawkins, Director, Office of Human Resources, Federal Highway Administration
Luz A. Hopewell, Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary

**Federal Transit Administration**

Janet L. Sahaj, Deputy Associate Administrator, Office of Program Management, Federal Transit Administration
Michael Winter, Associate Administrator for Budget and Policy, Federal Transit Administration
Rosalind A. Knapp, Deputy General Counsel, Office of the Secretary
Richard M. Biter, Deputy Director, Office of Intermodalism, Office of the Secretary
Glenda Tate, Assistant Administrator for Human Resource Management, Federal Aviation Administration
Jerry A. Hawkins, Director, Office of Human Resources, Federal Highway Administration

**Office of Inspector General**

Joyce N. Fleischman, Deputy Inspector General, Department of Agriculture
John J. Connors, Deputy Inspector General, Department of Housing and Urban Development
Judith J. Gordon, Assistant Inspector General for Systems Evaluation, Department of Commerce
Nancy Hendricks, Assistant Inspector General for Audit, Federal Emergency Management Administration
Steven A. McNamara, Assistant Inspector General for Audit, Department of Education
Everett Mosley, Deputy Inspector General, Agency for International Development
Robert S. Terjesen, Assistant Inspector General for Investigations, Department of State
Joseph R. Willever, Deputy Inspector General, Office of Personnel Management
Thomas J. Bondurant, Assistant Inspector General for Investigations, Department of Justice
Allen P. Fallin, Assistant Inspector General for Investigations, Environmental Protection Agency
Elissa Karpf, Deputy Assistant Inspector General for External Audits, Environmental Protection Agency
Michael Phelps, Deputy Assistant Inspector General for Auditing, Department of Housing and Urban Development

**Coast Guard**

RADM F.L. Ames, Assistant Commandant for Human Resources, United States Coast Guard
RADM T.M. Cross, Assistant Commandant for Operations, United States Coast Guard
RADM Joyce M. Johnson, Director, Health and Safety Directorate, United States Coast Guard
RADM D.R. Nicholson, Director of Resources, United States Coast Guard
RADM P.M. Stillman, Assistant Commandant for Congressional and

Public Affairs, United States Coast Guard
RADM R.F. Silva, Assistant Commandant for Systems, United States Coast Guard
RADM K.T. Venuto, Director of Operations Policy, United States Coast Guard
RADM J.W. Underwood, Director, Office of Intelligence and Security, Office of the Secretary
Janet L. Sahaj, Deputy Associate Administrator, Office of Program Management, Federal Transit Administration
Charles White, Associate Administrator for Policy and Program Development, Federal Railroad Administration
Jerry Hawkins, Director, Office of Human Resources, Federal Highway Administration
Linda Lawson, Director, Office of Economics, Office of the Secretary

**National Highway Traffic Safety Administration**

Herman Simms, Associate Administrator for Administration, National Highway Traffic Safety Administration
Raymond Owings, Associate Administrator for Research and Development, National Highway Traffic Safety Administration
Kenneth Weinstein, Associate Administrator for Safety Assurance, National Highway Traffic Safety Administration
Frank Seales, Chief Counsel, National Highway Traffic Safety Administration
Patricia Prosperi, Principal, TASC Information Services, TASC
Luz A. Hopewell, Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary

**Federal Highway Administration**

Vincent F. Schimmoller, Program Manager, Infrastructure, Federal Highway Administration
Christine M. Johnson, Program Manager, Operations, Federal Highway Administration
Arthur E. Hamilton, Program Manager, Federal Lands Highway, Federal Highway Administration
Eugene W. Cleckley, Director, Southern Resource Center, Federal Highway Administration
Michael J. Vecchietti, Director of Administration, Federal Highway Administration
Charlotte M. Adams, Associate Administrator for Planning, Federal Transit Administration
Nadine Hamilton, Deputy Assistant Secretary for Governmental Affairs, Office of the Secretary

**Maritime Administration**

Bruce J. Carlton, Associate Administrator for Policy and International Trade, Maritime Administration
James J. Zok, Associate Administrator for Shipping Analysis and Cargo Preference, Maritime Administration
Margaret D. Blum, Associate Administrator for Port, Intermodal and Environmental Activities, Maritime Administration
John L. Mann, Jr., Associate Administrator for Administration, Maritime Administration
James E. Caponiti, Associate Administrator for National Security, Maritime Administration
Bonnie M. Green, Deputy Administrator for Inland Waterways and Great Lakes, Maritime Administration
Jerry A. Hawkins, Director, Office of Human Resources, Federal Highway Administration

**Office of the Secretary**

**Transportation Administrative Service Center**

**Bureau of Transportation Statistics**

Jamie Williams, Director, Executive Secretariat, Office of the Secretary
Linda Lawson, Director, Office of Economics, Office of the Secretary
Randall Bennett, Director, Office of Aviation and International Economics, Office of the Secretary
Roberta D. Gabel, Assistant General Counsel for Environmental, Civil Rights, and General Law, Office of the Secretary
Douglas Leister, Executive Assistant, Office of the Secretary
Beverly Pheto, Director, Office of Budget and Program Performance, Office of the Secretary
Patricia Prosperi, Principal, TASC Information Services, TASC
Edward L. Thomas, Associate Administrator for Research, Demonstration and Innovation, Federal Transit Administration
Rose McMurray, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration
Jerry A. Hawkins, Director, Office of Human Resources, Federal Highway Administration

**Research and Special Programs Administration**

Mary Karen Cronin, Director, Office of Information and Logistics Management, Research and Special Programs Administration
Elaine Joost, Deputy Director, Office of Research Policy and Technology Transfer, Research and Special Programs Administration
Edward Brigham, Associate Administrator for Management and Administration, Research and Special Programs Administration
Ellen Heup, Director, Office of Policy and Plans, Maritime Administration
John Graykowski, Deputy Administrator, Maritime Administration
Joseph Kanianthra, Director, Office of Vehicle Safety Research, National Highway Traffic Safety Administration
Herman Simms, Associate Administrator for Administration, National Highway Traffic Safety Administration
Charles White, Associate Administrator for Policy and Program Development, Federal Railroad Administration

**Federal Motor Carrier Safety Administration**

Brian McLaughlin, Director, Office of Policy, Plans, and Regulations, Federal Motor Carrier Safety Administration
Susan Binder, Director, Office of Legislation and Strategic Planning, Federal Highway Administration
Christine Johnson, Program Manager, Operations, Federal Highway Administration
Arthur Hamilton, Program Manager, Federal Lands Highway, Federal Highway Administration
Walter Sutton, Deputy Administrator, Federal Highway Administration
William Walsh, Associate Administrator for Plans and Policy, National Highway Transportation Safety Administration

**Surface Transportation Board**

Leland L. Gardner, Director, Office of Economics, Environmental Analysis, and Administration Surface Transportation Board
Joseph H. Dettmar, Deputy Director—Legal Analysis, Office of Proceedings, Surface Transportation Board
Dan G. King, Director, Office of Congressional and Public Services, Surface Transportation Board
Ellen D. Hanson, General Counsel, Surface Transportation Board

[FR Doc. 00–16115 Filed 6–23–00; 8:45 am]
BILLING CODE 4910–62–P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Termination of Draft Environmental Impact Statement; Milwaukee and Waukesha Counties, Wisconsin

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise that FHWA is terminating the Environmental Policy Act (EIS) process at the conclusion of the Draft Environmental Impact Statement/Major Investment Study (DEIS/MIS) phase of the project development. The FHWA and the WisDOT have jointly decided to not continue with completion of the EIS process for the IH 94 East-West Corridor Study. Work completed to date on the DEIS/MIS will serve as a starting point for developing environmental analysis and documentation for potential individual projects expected to follow. The DEIS/MIS was completed and made available to the public on November 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** William K. Fung, FHWA Wisconsin Division Administrator; Telephone: (608) 829–7500, FHWA Wisconsin Division Office, 567 D'Onofrio Drive, Madison, WI 53719–2814.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

**Background**

The FHWA, in cooperation with the Wisconsin Department of Transportation (WisDOT) is closing the Major Investment Study (MIS) for the I–94 East-West Corridor study in Milwaukee and Waukesha Counties, Wisconsin. The Draft Environmental Impact Statement (DEIS)/MIS was made available to the public on November 8, 1996. The DEIS/MIS evaluated five transportation components: (1) Redesign of the Marquette Interchange (I–94/I–43/I–794); (2) re-design of the East-West Freeway (I–94) between downtown Milwaukee and Waukesha; (3) special purpose lanes for carpools and buses in the East-West Freeway Corridor; (4) light rail transit in Milwaukee County; and (5) expanded bus transit service throughout the metro Milwaukee area.

A Locally Preferred Alternative (LPA) which included all five of the above-mentioned transportation components was accepted by the relevant county boards in 1997. However, none of the elements of the LPA have advanced into preliminary engineering. Developing the LPA completed the MIS process. Therefore, FHWA is concluding the Major Investment Study process for the I–94 East-West Corridor in Milwaukee and Waukesha Counties.

Because the corridor-wide MIS is in place, and recognizing that the components of the LPA are unlikely to proceed on the same schedule, the I–94 East-West Corridor DEIS will not be followed by a corridor-wide Final EIS or Record of Decision. The previous work completed on the DEIS will now serve to provide a solid foundation of information on which to begin environmental analysis of individual components. Then, if found to satisfy State and Federal requirements, the individual component could be advanced through the final design and construction phases. Advancing an individual component requires its own sponsoring agency. This advancement of a component would not preclude or assure that another component would move forward.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

**Authority:** 23 U.S.C. 315; 49 CFR 1.48.

Issued on: June 14, 2000.

**William K. Fung,**

*Division Administrator, Federal Highway Administration, Madison, WI.*

[FR Doc. 00–16005 Filed 6–23–00; 8:45 am]

**BILLING CODE 4910–22–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement: Ouachita Parish, Louisiana

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Ouachita Parish, Louisiana.

**FOR FURTHER INFORMATION CONTACT:** William C. Farr, Program Operations Manager, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, Louisiana 70808, Telephone: (225) 757–7615, Facsimile: (225) 757–7601.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Louisiana Department of Transportation and Development (LDOTD), will prepare an Environmental Impact Statement (EIS) on a proposal to construct a new highway facility on an alignment to be determined. The proposed project, known locally as the Kansas Lane Connector, is generally located in the northeast quadrant of Monroe, Louisiana. The roadway includes several alternates based on the number of bridges needed for various alignments. The approximate length of the project is 4.3 kilometers (2.7 miles). Final length will depend on the alternative selected.

The proposed improvements would improve the connectivity, travel time, and safety of the area and increase regional access to the area, including the University of Louisiana at Monroe for persons, businesses and industry in the region.

The western terminus of the proposed project will be in the vicinity of the junction of U.S. Highway 165 and Forsythe Avenue and the eastern terminus will be in the vicinity of the junction of U.S. Highway 80 and Kansas Lane.

Alternatives to be considered are:

(1) The ''Do-nothing'' Alternative, where the current and existing highways will be repaired and maintained in their present location, capacity, and character.

(2) The ''Build'' Alternative, considering several different alignments, roadway type and control of access.

An agency scoping meeting will be held at a time and place to be determined at a later date. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, state, and local agencies and to private organizations, including conservation groups and groups of individuals who have expressed interest in the project in the past. At least one public informational meeting will be held in the project area that will be affected. In addition, a Public Hearing will be held. Public notice will be given of the time and place of the public informational meeting(s) and the Public Hearing. The draft EIS will be available for public and agency review and comment prior to the Public Hearing.

To ensure that the full range of issues related to this proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning

and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

**William A. Sussmann,**

*Division Administrator, FHWA, Baton Rouge, Louisiana.*

[FR Doc. 00–16006 Filed 6–23–00; 8:45 am]

**BILLING CODE 4910–22–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Environmental Impact Statement on the Dulles Corridor Rapid Transit Project in Metropolitan Washington, DC

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement (EIS).

**SUMMARY:** The Federal Transit Administration (FTA), the Virginia Department of Rail and Public Transportation (DRPT), and the Washington Metropolitan Area Transit Authority (WMATA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, on the proposed Dulles Corridor Rapid Transit Project in Fairfax and Loudoun Counties, Virginia, which are within the metropolitan area of Washington, D.C. The lead agencies will also seek the cooperation of the Federal Aviation Administration (FAA), the Virginia Department of Transportation (VDOT), and the Metropolitan Washington Airports Authority (MWAA) in conducting this review.

The EIS will address the need to improve transit access and mobility in response to projected growth, traffic congestion, and land-use plans for the Dulles Corridor, including Tysons Corner. The EIS will develop alternatives for the project which will (1) be feasible, cost-effective, and beneficial transportation improvements that enhance connections to the existing transit systems, to Washington Dulles International Airport, and to land developments throughout the Dulles Corridor; (2) increase transit bus and Metrorail ridership; and (3) enhance the region's economic vitality and quality of life. The EIS will evaluate a No-Build Alternative, a Transportation Systems Management (TSM) Alternative, several Build Alternatives, and any additional alternatives generated by the scoping process. The TSM Alternative will assess low cost, operationally oriented improvements to meet the transportation needs in the Dulles Corridor and will be equivalent to enhanced local and express bus service in the two counties. The Build Alternatives will consider Bus Rapid Transit (BRT), Metrorail rapid transit, and combinations of these transit modes. The type, design, location, and need of ancillary facilities, such as parking facilities, bus maintenance depots, and rail yards, will also be considered for the Build Alternatives. Scoping will be accomplished through meetings and correspondence with interested persons, organizations, the general public, Federal, State, regional, and local agencies.

**DATES:** *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to Mr. Leonard Alfredson, Project Manager, Office of Extensions, Washington Metropolitan Area Transit Authority, 1550 Wilson Boulevard, Suite 300, Arlington, VA 22209, by Thursday, August 10, 2000.

*Scoping Meetings:* Public scoping meetings for the Dulles Corridor Rapid Transit Project will be held on:

*Tuesday, July 25, 2000*

7 p.m. to 10 p.m., George C. Marshall High School, 7731 Leesburg Pike, Falls Church, Virginia 22043.

*Wednesday, July 26, 2000*

7 p.m. to 10 p.m., Langston Hughes Middle School, 11401 Ridge Heights Road, Reston, Virginia 20191.

*Thursday, July 27, 2000*

7 p.m. to 10 p.m., Ashburn Elementary School, 44062 Fincastle Drive, Ashburn, Virginia 20147.

The locations of the scoping meetings are accessible to persons with disabilities. Any individual with a disability who requires special assistance, such as a sign language interpreter, to participate in the scoping meetings, should contact Mr. Leonard Alfredson at the address below or call the project INFO line at 888–566–7245 (TTD: 202–638–3780) by Monday, July 17, 2000, in order for WMATA to make necessary arrangements.

Scoping material will be available at the meetings and may also be obtained in advance of the meetings by contacting Mr. Alfredson at the address below or by calling the project INFO line above. Oral and written comments may be given at the scoping meetings; a video team will record all comments. If you wish to be placed on the mailing list to receive further information as the project develops, contact Mr. Leonard Alfredson at the address below, call the project INFO line at 888–566–7245, or send an e-mail (including your name and address) to dullescorridor@aol.com.

**ADDRESSES:** *Written comments* on the project scope should be sent to Mr. Leonard Alfredson, Project Manager, Office of Extensions, Washington Metropolitan Area Transit Authority, 1550 Wilson Boulevard, Suite 300, Arlington, VA 22209. *Scoping meetings* will be held at the locations identified above in the **DATES** section.

**FOR FURTHER INFORMATION CONTACT:** Mr. Douglas Kerr, P.E., Washington Metro Area Coordinator, Federal Transit Administration, 202–366–1641.

**SUPPLEMENTARY INFORMATION:**

#### I. Scoping

The FTA, DRPT, and WMATA invite all interested individuals and organizations, and federal, state, regional, and local agencies to provide comments on the scope of the project. During the scoping process, comments should focus on identifying specific social, economic, or environmental issues to be evaluated and on suggesting alternatives, which may be less costly or have less environmental impacts, while achieving similar transportation objectives. Comments should focus on the issues and alternatives for analysis and not on a preference for a particular alternative. Scoping material will be available at the meetings or in advance of the meetings by contacting Mr. Leonard Alfredson at WMATA or by calling the project INFO line, as indicated above.

The Dulles Corridor Rapid Transit Project will be closely coordinated with the following major regional studies and projects:

- *Capital Beltway Corridor Rail Feasibility Study,* a study by DRPT on the feasibility of constructing commuter rail from the existing mass transit rail facilities at Springfield to the mass transit rail facilities at or near Tysons Corner and Vienna. The study will examine the continuation of rail from Tysons Corner to a connection with rail in Maryland.
- *Capital Beltway NEPA Study,* an analysis by the Virginia Department of Transportation (VDOT) of beltway capacity and access improvements.
- *Dulles International Airport Master Plan* and landside improvements, a program of projects by the Metropolitan Washington Airports Authority.
- *I–66 EIS and Location Study,* a step in developing and implementing highway and transit improvements in the I–66 corridor between U.S. Route 15 in Prince William County and I–495 in Fairfax County.

Following the public scoping process, public outreach activities will include meetings with communities and organizations; public meetings on alternatives; public hearing(s) on the Draft EIS; distribution of project fact sheets and newsletters; and use of other outreach methods.

**II. Description of Study Area and Transportation Needs**

The study area of the proposed Dulles Corridor Rapid Transit Project is centered on the alignment of the Dulles Airport Access Road and the Dulles Toll Road within Fairfax County, and the Dulles Greenway—the private extension of the Toll Road—in Loudoun County. The length of the Corridor is more than 24 miles, extending from the Metrorail Orange Line, at a point between the West Falls Church Station and East Falls Church in Fairfax County, through the Washington Dulles International Airport and onto Route 772 in Loudoun County. The study area encompasses Tysons Corner, through which alignment alternatives traverse. The study area also includes the vicinity of stations and ancillary facilities such as parking, bus maintenance depot, and rail yard. This study area is generalized and considered flexible, subject both to the outcome of the scoping process and the locations of the alternatives studied in detail.

The Metropolitan Washington Council of Governments expects the population and employment in the Dulles Corridor over the next twenty years to increase more rapidly than the metropolitan regional averages. The increases in households and jobs in the Corridor are significantly large in both relative and absolute numbers. MWAA projects that the Washington Dulles International Airport will also have significant increases in air travel patronage, air cargo operations, and employees; therefore, ground-side access volumes at the Airport will be growing substantially. The projected consequence of this rapid growth in travel is markedly higher traffic volumes on highways and streets throughout the region and in the Dulles Corridor. Traffic congestion on the Toll Road will increase in both severity and duration as the peak period ''spreads'' to encompass earlier and later hours. VDOT projects travel on parallel arterials to increase proportionately as increasing congestion on the Toll Road will cause a higher fraction of travel in the Corridor to use alternative routes.

In response to the above transportation conditions, DRPT conducted a Major Investment Study (MIS), with a supplement, for the Dulles Corridor. The results of the 1997 MIS study and its 1999 supplement resulted in a four-phase implementation program of express bus service in two phases, then Bus Rapid Transit as an interim transit service to rail, and then Metrorail. These documents are available for inspection by contacting Mr. Alfredson as described in the **DATES** section above or by visiting the DRPT web site, http://www.drpt.state.va.us/library.htm.

**III. Alternatives**

The alternatives proposed for evaluation include: (1) The No-Build Alternative, which involves the current infrastructure of highways and bus service, in addition to all ongoing and upcoming roadway and transit projects outlined in the regional Transportation Improvement Program (TIP); (2) the Transportation Systems Management (TSM) Alternative, which includes all elements of the No-Build alternative in addition to enhanced express bus service in the two counties. The TSM Alternative is a low cost alternative that uses existing facilities to the greatest extent possible to meet the identified transportation needs in the study area. The TSM Alternative also provides the baseline against which the cost-effectiveness of capital investments in other alternatives can be evaluated; and (3) the Build Alternatives of Bus Rapid Transit and Metrorail. There are three Build Alternatives:

(a) Bus Rapid Transit for the full length of the Dulles Corridor, between the West Falls Church Station of the Orange Line and Route 772. This alternative will be developed to permit the phased conversion of Bus Rapid Transit to Metrorail, as proposed in the 1999 Supplement to the MIS.

(b) Metrorail between the Orange Line and Tysons Corner, plus Bus Rapid Transit for the remainder of the Corridor, between Tysons Corner and Route 772. This alternative will also be developed to permit the phased conversion of Bus Rapid Transit to Metrorail, as proposed in the 1999 Supplement to the MIS.

(c) Metrorail for the full length of the Dulles Corridor, between the Orange Line and Route 772.

The Build Alternatives include alignments in the medians of the Dulles Airport Access Road and Dulles Greenway toll road, and through Tysons Corner and Washington Dulles International Airport; new stations along the alignments; and ancillary facilities of parking, bus maintenance depot, rail yard, traction power substations, and tiebreaker stations.

Additional reasonable Build Alternatives suggested during the scoping process, including those involving other modes, may be considered.

**IV. Potential Impacts for Analysis**

The FTA, DRPT, and WMATA will evaluate all environmental, social, and economic impacts of the alternatives analyzed in the EIS. Impacts include land use, zoning, and economic development; secondary development; cumulative impacts; land acquisition, displacements, and relocation of existing uses; historic, archaeological, and cultural resources; parklands and recreation areas; visual and aesthetic qualities; neighborhoods and communities; environmental justice; air quality; noise and vibration; hazardous materials; ecosystems; water resources; energy; construction impacts; safety and security; utilities; and transportation impacts. The impacts will be evaluated both for the construction period and for the long-term period of operation of each alternative. Measures to mitigate adverse impacts will be identified.

**V. FTA Procedures**

A Draft EIS will be prepared to document the evaluation of the environmental, social, and economic impacts of the alternatives. Upon completion, the Draft EIS will be available for public and agency review and comment. Public hearing(s) on the Draft EIS will be held within the study area. On the basis of the Draft EIS and the public and agency comments received, a locally preferred alternative will be selected and described in full detail in the Final EIS.

Dated: June 20, 2000.

**Hiram J. Walker,**

*Associate Administrator for Program Management.*

[FR Doc. 00–16036 Filed 6–23–00; 8:45 am]

**BILLING CODE 4910–62–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD–2000–7550]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel REEF DIVER.

**SUMMARY:** As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is

authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

**DATES:** Submit comments on or before July 26, 2000.

**ADDRESSES:** Comments should refer to docket number MARAD–2000–7550. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, S.W., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** Title V of P.L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (less than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

**Vessel Proposed for Waiver of the U.S.-build Requirement**

(1) Name of vessel and owner for which waiver is requested: Name of vessel: REEF DIVER. Owner: Richard R. Reth.

(2) Size, capacity and tonnage of vessel: According to the Applicant: The vessel is 38 feet long, 12 feet wide and depth of 5 feet. The gross tonnage is 21.9 tons or 17.5 net tons.

(3) Intended use for vessel, including geographic region of intended operation and trade: According to the applicant: The use of the vessel is for 6 passenger recreational dive chartering on the Western shore of Lake Michigan. The intended region of operation is from Port Washington, WI, North to Kenosha, WI, South.

(4) Date and place of construction and (if applicable) rebuilding: Date of construction: unknown. Place of original construction: construction was believed to have taken place in Winona, MN, USA. However, due to the absence of sufficient builder certification necessary to meet U.S. documentation standards to qualify for a coastwise endorsement, for the purposes of waivers permitted under Pub. L. 105–383 the vessel is considered to not have been built in the United States.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: The impact of this waiver on the commercial vessel operators is probably of no significance. The vessel is the only dive charter between Milwaukee, WI and Kenosha, WI. Further, according to the applicant, the three major and oldest dive charter operators out of the Milwaukee area encourage this new venture and have said the more the better. The applicant also claims a beneficial working relationship with other existing operators. For example, the owner claims operators exchange passengers when needed and help each other to find wrecks. Lastly the applicant states that the operation of all dive charters in the area is to: charter passengers out to dive sites, and provide a safe and enjoyable means to see the historic ships of the past, that had the unexpected fate of sinking, mostly due to weather.

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: The release of the U.S. build requirements should have no adverse effect on the U.S. shipyards, because as of this letter, all vessels being used today in this area are refitted existing vessels for this activity. Therefore the shipbuilders should not be effected.

Dated: June 20, 2000.

By Order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 00–16021 Filed 6–23–00; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33880]**

### Columbiana County Port Authority—Acquisition Exemption—Certain Rail Assets of Pittsburgh & Lake Erie Properties, Inc., in Mahoning County, OH

Columbiana County Port Authority (CCPA) has filed a verified notice of exemption under 49 CFR 1150.31 to acquire certain rail assets from the bankruptcy estate of Pittsburgh & Lake Erie Properties, Inc. (P&LEP), including certain easement rights between survey stations 46+00 and 146+00 between Struthers and Youngstown, OH.

This line of railroad was previously owned by predecessors-in-interest of P&LEP and were sold to various entities, subject to easements, which, according to CCPA, allowed P&LEP to assign the operation of the line to other parties, subject to regulatory approval.[1] This transaction is related to STB Docket No. AB–556 (Sub-No. 2X), *Railroad Ventures, Inc.—Abandonment Exemption—Between Youngstown, OH, and Darlington, PA, in Mahoning and Columbiana Counties, OH, and Beaver County, PA,* in which CCPA has made an offer of financial assistance to purchase the 35.7-mile line of railroad owned by Railroad Ventures, Inc., between Darlington and Youngstown. By entering into an interchange agreement with The Ohio & Pennsylvania Railroad Company, CCPR will be able to operate from Darlington to the point of interchange with CSX Transportation, Inc., at milepost − 3.0 at

[1] In issuing this notice, the Board is making no ruling on the property or contractual rights of the parties. Therefore, by invoking the class exemption, CCPA has Board permission to acquire these assets to the extent that it has been able, or will be able, legally to obtain the property rights. *See Central Columbiana & Pennsylvania Railway, Inc.—Lease and Operation Exemption—Columbiana County Port Authority,* STB Finance Docket No. 33818 (STB served Dec. 23, 1999) in which Central Columbiana & Pennsylvania Railway, Inc. (CCPR), was authorized to operate over this 3-mile segment and over a 35.7-mile line segment between Darlington, PA, and Youngstown, OH, to be purchased by CCPA.

or near Struthers, and with Norfolk Southern Railway Company at milepost −1.5 at Haselton Yard.

While CCPA states that consummation of the transaction occurred on April 19, 2000, the exemption that provided the regulatory approval for the transaction did not become effective until June 8, 2000, seven days after the filing of the verified notice of exemption.

If the notice 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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33880, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Richard H. Streeter, Barnes & Thornburgh, Suite 500, 1401 Eye Street, N.W., Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 19, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 00–15970 Filed 6–23–00; 8:45 am]

**BILLING CODE 4915–00–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

June 19, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before July 26, 2000 to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–1541.

*Revenue Procedure Number:* Revenue Procedure 97–27.

*Type of Review:* Extension.

*Title:* Changes in Methods of Accounting.

*Description:* The information requested in sections 6, 8, and 13 of Revenue Procedure 97–27 is required in order for the Commissioner to determine whether the taxpayer is properly requesting to change its method of accounting and the terms and conditions of that change.

*Respondents:* Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

*Estimated Number of Respondents:* 3,000.

*Estimated Burden Hours Per Respondent:* 3 hours, 13 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 9,633 hours.

*Clearance Officer:* Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

*OMB Reviewer:* Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

**Mary A. Able,**

*Departmental Reports Management Officer.*

[FR Doc. 00–16018 Filed 6–23–00; 8:45 am]

**BILLING CODE 4830–01–P**

# Corrections

**Federal Register**
Vol. 65, No. 123
Monday, June 26, 2000

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.

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### 48 CFR Parts 715 and 742

**[AIDAR Circular 00-1]**

**RIN 0412-AA44**

### Contractor Performance Evaluation

*Correction*

In rule document 00–13486 appearing on page 36642 in the issue of Friday, June 9, 2000, make the following corrections:

1. In the first column, under the heading **FOR FURTHER INFORMATION CONTACT:**, seven lines down, ''partperformance@usaid.gov'' should read ''pastperformance@usaid.gov''.

2. In the second column, two lines from the bottom, ''officer'' should read ''office''.

[FR Doc. C0–13486 Filed 6–23–00; 8:45 am]
**BILLING CODE 1505–01–D**

## OFFICE OF PERSONNEL MANAGEMENT

### 48 CFR Part 1652

**RIN 3206 AI67**

### Federal Employees Health Benefits (FEHB) Program and Department of Defense (DoD) Demonstration Project; and Other Miscellaneous Changes

*Correction*

In rule document 00–13851 beginning on page 36382 in the issue of Thursday, June 8, 2000, make the following correction:

On page 36387, in the first column, the section heading '' **1652.2161-70** '' should read, ''**1652.216-70** ''.

[FR Doc. C0–13851 Filed 6–23–00; 8:45 am]
**BILLING CODE 1505–01–D**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Airspace Docket No. 00-AGL-08]**

### Proposed Establishment of Class E Airspace; Minneapolis, Flying Cloud Airport, MN

*Correction*

In the correction to proposed rule document 00–8969 appearing in the issue of Friday, May 12, 2000, on page 30678, in the third column, the docket number should read as set forth above.

[FR Doc. C0–8969 Filed 6–23–00; 8:45 am]
**BILLING CODE 1505–01–D**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 25

**[TD 8886]**

**RIN 1545-AX07**

### Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests

*Correction*

In rule document 00–12986 beginning on page 36908 in the issue of Monday, June 12, 2000, make the following correction:

**§25.2512-5 [Corrected]**

On page 36942, the first equation, in §25.2512-5(d)(2)(C)(v)(A) *Example*, should read as follows:

$$\frac{(1.00000-.21669)-(.392624\times(71357/85537)\times(1.00000-.34762))}{.098}=5.8126$$

[FR Doc. C0–12986 Filed 6–23–00; 8:45 am]
**BILLING CODE 1505–01–D**

Federal Register

**Monday,**
**June 26, 2000**

# Part II

# Department of the Treasury

**Office of the Comptroller of the Currency**
**Office of Thrift Supervision**

# Federal Reserve System

# Federal Deposit Insurance Corporation

**12 CFR Parts 30, 208, et al.**
**Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness; Proposed Rule**

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Part 30**

**[Docket No. 00–13]**

**RIN 1557–AB84**

**FEDERAL RESERVE SYSTEM**

**12 CFR Parts 208, 211, 225, and 263**

**[Docket No. R–1073]**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Parts 308 and 364**

**RIN 3064–AC39**

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

**12 CFR Parts 568 and 570**

**[Docket No. 2000–51]**

**RIN 1550–AB36**

## Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness

**AGENCIES:** The Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

**ACTION:** Joint notice of proposed rule making.

**SUMMARY:** The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision, (collectively, the Agencies) are requesting comment on proposed Guidelines establishing standards for safeguarding customer information published to implement sections 501 and 505(b) of the Gramm-Leach-Bliley Act (the G–L–B Act or Act).

Section 501 of the G–L–B Act requires the Agencies to establish appropriate standards for the financial institutions subject to their respective jurisdictions relating to administrative, technical, and physical safeguards for customer records and information. These safeguards are intended to: Insure the security and confidentiality of customer records and information; protect against any anticipated threats or hazards to the security or integrity of such records; and protect against unauthorized access to or use of such records or information that could result in substantial harm or inconvenience to any customer. The Agencies are to implement these standards in the same manner, to the extent practicable, as standards prescribed pursuant to section 39(a) of the Federal Deposit Insurance Act (FDI Act). The proposed Guidelines implement the requirements of the G–L–B Act.

The Agencies previously issued guidelines establishing Year 2000 safety and soundness standards for insured depository institutions pursuant to section 39 of the FDI Act. Since the events for which these guidelines were issued have passed, the Agencies have concluded that the guidelines are no longer necessary and propose to rescind the guidelines as part of this rulemaking.

**DATES:** Comments must be received not later than August 25, 2000.

**ADDRESSES:** Comments should be directed to: *Office of the Comptroller of the Currency (OCC):* Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Third Floor, Washington, DC 20219, Attention: Docket No. 00–13; Fax number (202) 874–5274 or Internet address: *regs.comments@occ.treas.gov.* Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW., Washington, D.C., between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

*Board of Governors of the Federal Reserve System (Board):* Comments, which should refer to Docket No. R–1073, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551 or mailed electronically to *regs.comments@federalreserve.gov.* Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9 a.m. and 5 p.m., pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding the Availability of Information, 12 CFR 261.12 and 261.14.

*Federal Deposit Insurance Corporation (FDIC):* Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments also may be mailed electronically to *comments@fdic.gov.* Comments may be hand delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m.; Fax number (202) 898–3838. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC 20429, between 9 a.m. and 5:00 p.m. on business days.

*Office of Thrift Supervision (OTS):* Send comments to Manager, Dissemination Branch, Information Management & Services Division, Office of Thrift Supervision, 1700 G Street, NW., lower level from 9:00 a.m. to 5:00 p.m. on business days. Send facsimile transmissions to Fax number (202) 906–7755 or (202) 906–6956 (if the comment is over 25 pages). Send email to *public.info@ots.treas.gov* and include your name and telephone number. Interested persons may inspect comments at 1700 G Street, NW., from 9 a.m. until 4 p.m. on Tuesdays and Thursdays.

**FOR FURTHER INFORMATION CONTACT:**

*OCC:* Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090; John Carlson, Acting Deputy Director for Bank Technology, (202) 874–5013; Deborah Katz, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Jeffery Abrahamson, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090.

*Board:* Heidi Richards, Manager, Division of Banking Supervision and Regulation, (202) 452–2598; or Stephanie Martin, Managing Senior Counsel, Legal Division, (202) 452–3198.

For the hearing impaired only, contact Janice Simms, Telecommunication Device for the Deaf (TDD) (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

*FDIC:* Thomas J. Tuzinski, Review Examiner, Division of Supervision, (202) 898–6748; Jeffrey M. Kopchik, Senior Policy Analyst, Division of Supervision, (202) 898–3872; or Robert A. Patrick, Counsel, Legal Division, (202) 898–3757.

*OTS:* Paul R. Reymann, Senior Project Manager, Technology Risk Management, (202) 906–5645; or Christine Harrington, Counsel, Banking and Finance,

Regulations and Legislation Division, (202) 906–7957.

**SUPPLEMENTARY INFORMATION:** The contents of this preamble are listed in the following outline:

I. Background
II. Section-by-Section Analysis
III. Regulatory Analysis
A. Paperwork Reduction Act
B. Regulatory Flexibility Act
C. Executive Order 12866
D. Unfunded Mandates Act of 1995
IV. Solicitation of Comments on Use of Plain Language

## I. Background

On November 12, 1999, President Clinton signed the G–L–B Act (Pub. L. 106–102) into law. Section 501, entitled Protection of Nonpublic Personal Information, requires the Agencies and the Securities and Exchange Commission, the National Credit Union Administration, and the Federal Trade Commission to establish appropriate standards for the financial institutions subject to their respective jurisdictions relating to the administrative, technical, and physical safeguards for customer records and information. These safeguards are intended to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information that would result in substantial harm or inconvenience to any customer.

Section 505(b) of the G–L–B Act provides that these standards are to be implemented by the Agencies in the same manner, to the extent practicable, as standards prescribed pursuant to section 39(a) of the FDI Act.[1] Section 39(a) of the FDI Act authorizes the Agencies to establish operational and managerial standards for insured depository institutions relative to, among other things, internal controls, information systems, and internal audit systems, as well as such other operational and managerial standards as the Agencies determine to be appropriate. These standards may be issued as guidelines or regulations. While this proposal is in the form of guidelines, the Agencies solicit comment on whether the final standards should be issued in the form of guidelines or as regulations.[2]

The proposed Guidelines apply to ''nonpublic personal information'' of ''customers'' as those terms are defined in the Agencies' privacy rules published in accordance with Title V of the G–L–B Act (the Privacy Rule). *See* Privacy of Consumer Financial Information, 65 FR 35162 (June 1, 2000).[3] Under section 503(b)(3) of the G–L–B Act and the Privacy Rule, financial institutions will be required to disclose their policies and practices with respect to protecting the confidentiality, security, and integrity of nonpublic personal information as part of the initial and annual notices to their customers. Key components of the proposed Guidelines were derived from security-related supervisory guidance previously issued by the Agencies and the Federal Financial Institutions Examination Council (FFIEC).

The texts of the Agencies' proposed Guidelines are substantively identical. The Agencies request comment on all aspects of the proposed Guidelines as well as comment on the specific provisions and issues highlighted in the section-by-section analysis below. Those commenters who believe that the proposed Guidelines would impose undue burdens on financial institutions should identify which parts of the Guidelines they believe impose excessive burdens and describe the burdens. Those commenters should also discuss either: (1) Alternative methods that would accomplish the same purpose; or (2) why the intended purpose is unnecessary or should be modified.

The Agencies also seek comments on the impact of this proposal on community banks. The Agencies recognize that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, in addition to reviewing comments, each Agency will endeavor to assess the potential impact and burden that the proposal may impose on community banks during the comment period. The Agencies also specifically request comment on the impact of this proposal on community banks' current resources and available personnel with the requisite expertise. Commenters should discuss whether (1) The standards are reasonable and realistic for community banks, and (2) whether the goals of the proposed regulation could be achieved, for community banks, through an alternative approach. Based on the comments received, the Agencies will consider whether there is a need to develop a compliance guide for community banks and other smaller institutions in conjunction with the final Guidelines.

As proposed, the Guidelines will appear as an appendix to each Agency's Standards for Safety and Soundness. For the OCC those regulations appear at 12 CFR part 30; for the Board at 12 CFR part 208; for the FDIC at 12 CFR part 364; and for the OTS at 12 CFR part 570. The Board is also amending 12 CFR parts 211 and 225 to apply the Guidelines to other institutions that it supervises.

The Agencies will apply the rules already in place to require the submission of a compliance plan in appropriate circumstances. For the OCC those regulations appear at 12 CFR part 30; for the Board at 12 CFR part 263; for the FDIC at 12 CFR part 308, subpart R; and for the OTS at 12 CFR part 570. This proposal makes conforming changes to the regulatory text of these parts.

Rescission of Year 2000 Standards for Safety and Soundness. The Agencies previously issued guidelines establishing Year 2000 safety and soundness standards for insured depository institutions pursuant to section 39 of the FDI Act. Because the events for which these guidelines were issued have passed, the Agencies have concluded that the guidelines are no longer necessary and propose to rescind the guidelines as part of this rulemaking. These guidelines appear for the OCC at 12 CFR part 30, appendix B and C; for the Board at 12 CFR part 208, appendix D–2; for the FDIC at 12 CFR part 364, appendix B; and for the OTS at 12 CFR part 570, appendix B. The Agencies request comment on whether the rescission of these appendices is appropriate.

## II. Section-by-Section Analysis

The discussion that follows applies to each of the Agencies' proposed Guidelines.

[1] Section 39 applies only to insured depository institutions, including insured branches of foreign banks. The Guidelines, however, will also apply to certain uninsured institutions, such as bank holding companies, certain nonbank subsidiaries of bank holding companies and insured depository institutions, and uninsured branches and agencies of foreign banks. *See* section 501 and 505(b) of the G–L–B Act.

[2] The OTS proposes to place its information security guidelines in Appendix B to 12 CFR part 570, with the provisions implementing section 39 of the FDI Act. At the same time, the OTS proposes a regulatory requirement that the institutions the OTS regulates comply with the proposed guidelines. Because information security guidelines are similar to physical security procedures, the OTS proposes including a provision in 12 CFR part 568, which covers primarily physical security procedures, requiring compliance with the guidelines in Appendix B to part 570.

[3] Where the Supplementary Information refers to a section of the Privacy Rule, it will preface the common section number with ''__'', as each Agency has a different part number.

**Appendix __ to Part __—Interagency Guidelines Establishing Standards for Safeguarding Customer Information**

*I. Introduction*

Proposed paragraph I. sets forth the general purpose of the proposed Guidelines, which is to provide guidance to each financial institution in establishing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information. This paragraph also sets forth the statutory authority for the proposed Guidelines, including section 39(a) of the FDI Act (12 U.S.C. 1831p–1) and sections 501 and 505(b) of the G–L–B Act (15 U.S.C. 6801 and 6805(b) ).

*I.A. Scope*

Paragraph I.A. describes the scope of the proposed Guidelines. Each Agency defines specifically those entities within its particular scope of coverage in this paragraph of the proposed Guidelines. [4]

*I.B. Preservation of Existing Authority*

Paragraph I.B. makes clear that in issuing these proposed Guidelines none of the Agencies is, in any way, limiting its authority to address any unsafe or unsound practice, violation of law, unsafe or unsound condition, or other practice, including any condition or practice related to safeguarding customer information. Any action taken by any Agency under section 39(a) of the FDI Act and these Guidelines may be taken independently of, in conjunction with, or in addition to any other enforcement action available to the Agency.

*I.C. Definitions*

Paragraph I.C. sets forth the definitions of various terms for purposes of the proposed Guidelines. [5]

I.C.1. In General

Paragraph I.C.1. provides that terms used in the proposed Guidelines have the same meanings as set forth in sections 3 and 39(a) of the FDI Act (12 U.S.C. 1813 and 1831p–1), except to the extent that the definition of the term is modified in the proposed Guidelines or where the context requires otherwise.

I.C.2. Customer Information

Proposed paragraph I.C.2. defines customer information. Customer information includes any records, data, files, or other information containing nonpublic personal information, as defined in section __.3(n) of the Privacy Rule, about a customer. This includes records in paper, electronic, or any other form that are within the control of a financial institution or that are maintained by any service provider on behalf of an institution. Although the G–L–B Act uses both the terms ''records'' and ''information,'' for the sake of simplicity, in the proposed Guidelines the term ''customer information'' encompasses all customer records.

Section 501(b) refers to safeguarding the security and confidentiality of ''customer'' information. The term ''customer'' is also used in other sections of Title V of the G–L–B Act and has been defined by the Agencies in the Privacy Rule interpreting these sections to include those consumers who have a customer relationship with the institution. This term does not cover business customers, or consumers who have not established an ongoing relationship with a financial institution (*e.g.* those that merely use an institution's ATM or apply for a loan). *See* sections __.3(h) and (i) of the Privacy Rule.

The Agencies propose defining ''customer'' for purposes of the Guidelines consistently with the Privacy Rule. However, the Agencies have considered whether the scope of the Guidelines should apply to records regarding all consumers, the institution's consumer and business clients, or all of an institution's records. The Agencies solicit comment on whether a broader definition would change the information security program that an institution would implement, or, whether, as a practical matter, institutions would respond to the Guidelines by implementing an information security program for all types of records under their control rather than segregating ''customer'' records for special treatment.

I.C.3. Customer

Proposed paragraph I.C.3. defines customer. Customer would include any customer of an institution as defined in section __.3(h) of the Privacy Rule. A customer is a consumer who has established a continuing relationship with an institution under which the institution provides one or more financial products or services to the consumer to be used primarily for personal, family or household purposes.

I.C.4. Service Provider

Proposed paragraph I.C.4. defines a service provider as any person or entity that maintains or processes customer information on behalf of an institution, or is otherwise granted access to customer information through its provision of services to an institution.

I.C.5. Board of Directors

Proposed paragraph I.C.5. defines board of directors to mean, in the case of a branch or agency of a foreign bank, the managing official in charge of the branch or agency. [6]

I.C.6. Customer Information System

Proposed paragraph I.C.6. defines customer information system to be electronic or physical methods used to access, collect, store, use, transmit and protect customer information.

**II. Standards for Safeguarding Customer Information**

*II.A. Information Security Program*

The proposed Guidelines describe the Agencies' expectations for the creation, implementation, and maintenance of an information security program. This program must include administrative, technical, and physical safeguards appropriate to the size and complexity of the institution and the nature and scope of its activities. The proposed Guidelines describe the oversight role of the board of directors in this process and management's continuing duty to evaluate and report to the board on the overall status of this program. The four steps in this process require an institution to: (1) Identify and assess the risks that may threaten customer information; (2) develop a written plan containing policies and procedures to manage and control these risks; (3) implement and test the plan; and (4) adjust the plan on a continuing basis to account for changes in technology, the sensitivity of customer information, and internal or external threats to information security. The proposed Guidelines also set forth an institution's responsibility for overseeing outsourcing arrangements.

*II.B. Objectives*

Proposed paragraph II.B. describes the objectives for an information security program to ensure the security and

[4] While the OTS generally regulates savings and loan holding companies under the Home Owners Loan Act (12 U.S.C. 1461 *et seq.*), a different Federal functional regulator, a state insurance authority, or the Federal Trade Commission may establish standards for safeguarding customer information as to that holding company under section 505 of the G–L–B Act, depending on the nature of the holding company's activities.

[5] In addition to the definitions discussed below, the Board's guidelines in 12 CFR parts 208 and 225 contain a definition of ''subsidiary,'' which describes the state member bank and bank holding company subsidiaries that are subject to the Guidelines.

[6] The OTS version of the guidelines does not include this definition because the OTS does not regulate foreign institutions. Section I of the OTS guidelines has been renumbered accordingly.

confidentiality of customer information, protect against any anticipated threats or hazards to the security or integrity of such information, and protect against unauthorized access to or use of customer information that could either: (1) Result in substantial harm or inconvenience to any customer; or (2) present a safety and soundness risk to the institution. For purposes of the Guidelines, unauthorized access to or use of customer information does not include access to or use of customer information with the customer's consent. The Agencies request comment on whether there are additional or alternative objectives that should be included in the Guidelines.

**III. Develop and Implement Information Security Program**

*III.A. Involve the Board of Directors and Management*

Proposed paragraph III.A. describes the involvement of the board and management in the development and implementation of an information security program. The board's responsibilities are to: (1) Approve the institution's written information security policy and program that complies with these Guidelines; and (2) oversee efforts to develop, implement, and maintain an effective information security program, including the regular review of management reports.

The three responsibilities for management in the development of an information security program are to: (1) Evaluate the impact on the institution's security program of changing business arrangements (*e.g.* mergers and acquisitions, alliances and joint ventures, outsourcing arrangements), and changes to customer information systems; (2) document compliance with these Guidelines; and (3) keep the board informed of the current status of the institution's information security program, *e.g.,* report to the board on a regular basis on the overall status of the information security program, including material matters related to: Risk assessment; risk management and control decisions; results of testing; attempted or actual security breaches or violations and responsive actions taken by management; and any recommendations for improvements to the information security program.

The Agencies specifically invite comment regarding the appropriate frequency of reports to the board. Should the Guidelines specify reporting intervals—monthly, quarterly, annually? How regularly should management report to the board regarding the institution's information security program and why are these intervals appropriate? Should the Guidelines require that the board designate a Corporate Information Security Officer or other responsible individual who would have the authority, subject to the board's approval, to develop and administer the institution's information security program?

*III.B. Assess Risk*

Proposed paragraph III.B. describes the risk assessment process that should be developed as part of the information security program in order to meet the objectives of the Guidelines. First, a financial institution should identify and assess risks that may threaten the security, confidentiality, or integrity of customer information, whether in storage, processing, or transit. The risk assessment should be made in light of an institution's size, scope of operations, and technology. Institutions should determine the sensitivity of customer information to be protected as part of this analysis.

Next, a financial institution should conduct an assessment of the sufficiency of existing policies, procedures, customer information systems, and other arrangements intended to control the risks it has identified. Finally, the financial institution should monitor, evaluate, and adjust its risk assessment, taking into consideration any technological or other changes or the sensitivity of the information.

*III.C. Manage and Control Risk*

Proposed paragraph III.C. describes the elements of a comprehensive risk management plan designed to control identified risks and to achieve the overall objective of ensuring the security and confidentiality of customer information. It identifies the factors an institution should consider in evaluating the adequacy of its policies and procedures to effectively manage these risks commensurate with the sensitivity of the information as well as the complexity and scope of the institution and its activities. In establishing the policies and procedures, each institution should consider appropriate:

a. Access rights to customer information;

b. Access controls on customer information systems, including controls to authenticate and grant access only to authorized individuals and companies;

c. Access restrictions at locations containing customer information, such as buildings, computer facilities, and records storage facilities;

d. Encryption of electronic customer information, including while in transit or in storage on networks or systems to which unauthorized individuals may have access;

e. Procedures to confirm that customer information system modifications are consistent with the institution's information security program;

f. Dual control procedures, segregation of duties, and employee background checks for employees with responsibilities for or access to customer information;

g. Contract provisions and oversight mechanisms to protect the security of customer information maintained or processed by service providers;

h. Monitoring systems and procedures to detect actual and attempted attacks on or intrusions into customer information systems;

i. Response programs that specify actions to be taken when unauthorized access to customer information systems is suspected or detected;

j. Protection against destruction of customer information due to potential physical hazards, such as fire and water damage; and

k. Response programs to preserve the integrity and security of customer information in the event of computer or other technological failure, including, where appropriate, reconstructing lost or damaged customer information.

The Agencies intend that these elements accommodate institutions of varying sizes, scope of operations, and risk management structures. The Agencies invite comment on the degree of detail that should be included in the Guidelines regarding the risk management program, which elements should be specified in the Guidelines, and any other components of a risk management program that should be included.

The Guidelines also provide that an institution's information security program should include a training component designed to teach employees to recognize and respond to fraudulent attempts to obtain customer information and, where appropriate, to report any attempts to regulatory and law enforcement agencies.

The information security program also should include regular testing of systems to confirm that an institution and its service providers control identified risks and achieve the objectives to ensure the security and confidentiality of customer information. The tests should be verified by an independent third party or staff independent of those who conducted the test. Tests should be documented.

The frequency and nature of the testing should be determined by the risk assessment and adjusted as necessary to reflect changes in the internal and external conditions. The Agencies request comment on whether specific types of security tests, such as penetration tests or intrusion detections tests, should be required.

The Agencies invite comment regarding the appropriate degree of independence that should be specified in the Guidelines in connection with the testing of information security systems and the review of test results. Should the tests or reviews of tests be conducted by persons who are not employees of the financial institution? If employees may conduct the testing or may review test results, what measures, if any, are appropriate to assure their independence?

Finally, the Guidelines describe the need for an ongoing process of monitoring, evaluation, and adjustment of the information security program in light of any relevant changes in technology, the sensitivity of customer information, and internal or external threats to information security.

*III.D. Oversee Outsourcing Arrangements*

Proposed paragraph III.D. addresses outsourcing. An institution should exercise appropriate due diligence in managing and monitoring its outsourcing arrangements to confirm that its service providers have implemented an effective information security program to protect customer information and customer information systems consistent with these Guidelines.

The Agencies welcome comments on the appropriate treatment of outsourcing arrangements. For example, are industry best practices available regarding effective monitoring of service provider security precautions? Do service providers accommodate requests for specific contract provisions regarding information security? To the extent that service providers do not accommodate these requests, how do financial institutions implement effective information security programs? Should these Guidelines contain specific contract provisions requiring service provider performance standards in connection with the security of customer information?

*III.E. Implement the Standards*

Proposed paragraph III.E. describes the timing requirements for the implementation of these standards. Each financial institution is to take appropriate steps to fully implement an information security program pursuant to these Guidelines by July 1, 2001.

**III. Regulatory Analysis**

*A. Paperwork Reduction Act*

*FDIC:* The FDIC has determined that the proposed rule does not contain any information collections as defined by the Paperwork Reduction Act (44 U.S.C. 3501, *et seq*.).

*B. Regulatory Flexibility Act*

*OCC:* The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) requires an agency to either provide an Initial Regulatory Flexibility Analysis with a proposed rule or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include banks with less than $ 100 million in assets).

*A. Reasons for Proposed Rule*

The proposed Guidelines implement section 501(b) of the G–L–B Act. Section 501(b) requires the OCC to publish standards for financial institutions subject to its jurisdiction relating to administrative, technical, and physical standards to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

The OCC does not expect that this rule, if adopted, would have the threshold impact on small entities. The rule would adopt guidelines that are to be implemented by each institution within the OCC's primary jurisdiction in a way that is appropriate for that institution. Thus, the burden stemming from this rule is likely to be less on small institutions. Moreover, institutions regulated by the OCC, regardless of size, likely already have in place certain policies and procedures that would satisfy at least some of the guidelines. However, the OCC invites comment on the burden that likely will result on small institutions from this rulemaking, and has prepared the following analysis.

*B. Statement of Objectives and Legal Basis*

The objectives of the proposed Guidelines are described in the **SUPPLEMENTARY INFORMATION** section. The legal bases for the proposed rule are 12 U.S.C. 93a, 1818, 1831p–1, and 3102(b), and 15 U.S.C. 6801 and 6805(b)(1).

*C. Description of Small Entities to Which the Rule Will Apply*

The proposed rule would apply to all national banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities with assets under $100 million.

*D. Projected Reporting, Recordkeeping and Other Compliance Requirements*

The OCC does not believe that the proposed rule imposes any reporting or any specific recordkeeping requirements within the meaning of the RFA. The proposed rule requires all covered institutions to develop an information security program to safeguard customer information. An institution must assess risks to customer information, establish policies, procedures and training to control risks, test the program's effectiveness, and manage and monitor its service providers. These requirements will apply to all institutions subject to the OCC's jurisdiction, regardless of their size.

Because the information security program described in the proposed Guidelines reflects existing supervisory guidance already issued by the OCC and the FFIEC, as well as sound business practices, the OCC believes that most institutions already have such a program in place. Accordingly, the OCC believes that most covered institutions will already have the expertise to develop, implement, and maintain the program, including the skills of computer security professionals and lawyers. However, some institutions may need to formalize or enhance their information security programs. The OCC is concerned about the potential impact of the proposed Guidelines on community banks and will be reviewing current information security practices at smaller institutions. The OCC invites comment on the costs of establishing and operating an information security program.

*E. Identification of Duplicative, Overlapping, or Conflicting Federal Rules*

The OCC is unable to identify any statutes or rules which would overlap or conflict with the requirement to develop and implement an information security program. The OCC seeks comment and information about any such statutes or rules, as well as any other state, local, or industry rules or policies that require a covered institution to implement business practices that would comply with the requirements of the proposed rule.

*F. Discussion of Significant Alternatives*

The G–L–B Act requires that the Agencies issue standards to safeguard customer information. However, the G–L–B Act also states that the standards should be implemented in the same manner, to the extent practicable, as standards issued under section 39(a) of the FDI Act. Therefore, the standards have been issued as Guidelines and in a form that resembles all of the other standards prescribed by the Agencies thus far under section 39(a).

In addition, the G–L–B Act requires that standards be developed for all institutions, without exception. Therefore, the proposed Guidelines apply to institutions of all sizes, including those with assets of $100 million or less. However, the standards in the proposed Guidelines are flexible, so that each institution may develop an information security program tailored to its size and the nature of its operations. The OCC welcomes comment on any significant alternatives, consistent with the G–L–B Act, that would minimize the impact on small entities.

*Board:* The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) requires an agency either to publish an initial regulatory flexibility analysis with a proposed rule or certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. The Board cannot at this time determine whether the proposed Guidelines would have significant economic impact on a substantial number of small entities as defined by the RFA. Therefore, pursuant to subsections 603(b) and (c) of the RFA, the Board provides the following initial regulatory flexibility analysis.

*A. Reasons for Proposed Rule*

The Board is requesting comment on the proposed interagency Guidelines published pursuant to section 501 of the G–L–B Act. Section 501 requires the Agencies to publish standards for financial institutions relating to administrative, technical, and physical standards to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

*B. Statement of Objectives and Legal Basis*

The objectives of the proposed Guidelines are described in the Supplementary Information section above. The legal basis for the proposed Guidelines is the G–L–B Act, sections 501 and 505 (15 U.S.C. 6801 and 6805).

*C. Description/Estimate of Small Entities to Which the Rule Applies*

The proposed Guidelines would apply to approximately 9,500 institutions, including state member banks and certain of their subsidiaries, bank holding companies and certain of their subsidiaries, state-licensed uninsured branches and agencies of foreign banks, and Edge and agreement corporations. The Board estimates that over 4,500 of the covered institutions are small institutions with assets less than $100 million.

*D. Projected Reporting, Recordkeeping and Other Compliance Requirements*

The G–L–B Act and the proposed Guidelines require a covered institution to develop an information security program to safeguard customer information. The Guidelines will apply to all covered institutions regardless of size. Development of an information security program involves assessing risks to customer information, establishing policies, procedures, and training to control risks, testing the program's effectiveness, and managing and monitoring service providers. A covered institution may require professional skills to develop an information security program, including the skills of computer security professionals and lawyers.

The Board believes that the establishment of information security programs is a sound business practice for the covered institutions that is already addressed by existing supervisory procedures. Although some institutions may need to establish or enhance information security programs to comply with the proposed Guidelines, the cost of doing so is not known. Neverthless, the Board is concerned about the potential impact on community banks and will be reviewing current information security practices at smaller institutions during the comment period. The Board seeks any information or comment on the costs of establishing information security programs as detailed in the proposed Guidelines, particularly for smaller institutions. The Board welcomes comment on the appropriate level of detail and degree of flexibility in the proposed Guidelines and on the potential cost of particular provisions in the proposed Guidelines.

The Board does not believe that there are information collection requirements imposed by the proposed Guidelines.

*E. Identification of Duplicative, Overlapping, or Conflicting Federal Rules*

The Board is unable to identify any statutes or rules which would overlap or conflict with the requirement to develop and implement an information security program. The Board seeks comment and information about any such statutes or rules, as well as any other state, local, or industry rules or policies that require a covered institution to implement business practices that would overlap or conflict with the requirements of the proposed Guidelines.

*F. Discussion of Significant Alternatives*

The proposed Guidelines attempt to clarify the statutory requirements for all covered entities, including small entities. The proposed Guidelines are intended to provide substantial flexibility so that any institution, regardless of size, may adopt an information security program tailored to its individual needs. Neverthless, the Board is concerned about the potential impact on community banks and will be reviewing current information security practices at smaller institutions during the comment period. The Board seeks comment on elements that would be most useful in a Compliance Guide to be issued in conjunction with the final Guidelines. In addition, the Board welcomes comment on any significant alternatives to the proposed Guidelines that would provide adequate guidance regarding expectations for compliance with the G–L–B Act. The Board seeks any information or comment on cost-effective, sound information security programs and practices implemented by financial institutions, including community banks.

*FDIC:* The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) requires an agency to publish an initial regulatory flexibility analysis with a proposed rule whenever the agency is required to publish a general notice of proposed rulemaking for a proposed rule, except to the extent provided in the RFA. Pursuant to section 603 of the RFA, the FDIC provides the following initial regulatory flexibility analysis.

*A. Reasons for Proposed Rule*

The FDIC is requesting comment on the proposed interagency Guidelines published pursuant to section 501 of the G–L–B Act. Section 501 requires the Agencies to publish standards for financial institutions relating to administrative, technical, and physical standards to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any

anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer. The proposed standards do not represent any change in the policies of the FDIC; rather they implement the G–L–B Act requirement to provide appropriate standards relating to the security and confidentiality of customer records. The FDIC requests comment on whether small entities would be required to amend their operations in order to comply with the proposed standards and the costs for such compliance.

*B. Statement of Objectives and Legal Basis*

The **SUPPLEMENTARY INFORMATION** section above contains this information. The legal basis for the proposed rule is the G–L–B Act.

*C. Description /Estimate of Small Entities to Which the Rule Applies*

The proposed Guidelines would apply to all FDIC-insured state nonmember banks, approximately 3,700 of which are small entities as defined by the RFA.

*D. Projected Reporting, Recordkeeping and Other Compliance Requirements*

The FDIC does not believe that there are new reporting or recordkeeping requirements imposed by the proposed rule as defined by the Regulatory Flexibility Act (5 U.S.C. 603). Other compliance requirements of the proposed guidelines are applicable to all financial institutions subject to the jurisdiction of the FDIC and are discussed in the **SUPPLEMENTARY INFORMATION** section above. The G–L–B Act and the proposed Guidelines require all financial institutions subject to the jurisdiction of the FDIC to develop an information security program to safeguard customer information. The Guidelines will apply to all such covered institutions regardless of size. Development of an information security program involves assessing risks to customer information, establishing policies, procedures, and training to control risks, testing the program's effectiveness, and managing and monitoring service providers. A covered institution may require professional skills to develop an information security program, including the skills of computer security professionals and lawyers.

The FDIC believes that the establishment of information security programs is a sound business practice for the covered institutions that is already addressed by existing supervisory procedures. Although some institutions may need to enhance information security programs, the cost of doing so is not known. The FDIC seeks any information or comment on the costs of establishing information security programs.

*E. Identification of Duplicative, Overlapping, or Conflicting Federal Rules*

The FDIC is unable to identify any statutes or rules that would overlap or conflict with the requirement to develop and implement an information security program. The FDIC seeks comment and information about any such statutes or rules, as well as any other state, local, or industry rules or policies that require a financial institution subject to its jurisdiction to implement business practices that would comply with the requirements of the proposed Guidelines.

*F. Discussion of Significant Alternatives*

As previously noted, the G–L–B Act requires the FDIC to establish appropriate standards for financial institutions under its jurisdiction relating to the security and confidentiality of customer records. These proposed Guidelines attempt to clarify the statutory requirements for all covered entities, including small entities. These proposed Guidelines also provide substantial flexibility so that any institution, regardless of size, may adopt an information security program tailored to its individual needs. The FDIC welcomes comment on any significant alternatives, consistent with the G–L–B Act that would minimize the impact on small entities.

*OTS:* The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) requires OTS to publish an initial regulatory flexibility analysis with this proposed rule unless OTS can certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. Because OTS cannot at this time determine what impact this proposal would have on small entities, OTS provides the following initial regulatory flexibility analysis.

*A. Reasons for Proposed Action*

OTS makes this proposal pursuant to section 501 of the G–L–B Act. Section 501 requires OTS to publish standards for the thrift industry relating to administrative, technical, and physical safeguards to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

*B. Objectives of and Legal Basis for Proposal*

The **SUPPLEMENTARY INFORMATION** section above contains this information. The legal bases for the proposed action are: section 501 of the G–L–B Act; section 39 of the FDIA; and sections 2, 4, and 5 of the Home Owners' Loan Act (12 U.S.C. 1462, 1463, and 1464).

*C. Description of Entities to Which Proposal Would Apply*

This proposal would apply to all savings associations whose deposits are FDIC insured, and subsidiaries of such savings associations, except subsidiaries that are brokers, dealers, persons providing insurance, investment companies, and investment advisers.[7] There are approximately 487 such small savings associations, approximately 97 of which have subsidiaries.

*D. Projected Reporting, Recordkeeping, and Other Compliance Requirements; Skills Required*

The proposed rule does not contain any specific reporting requirements. However, it would require institutions to maintain certain records documenting compliance with the proposed rule, as detailed more specifically above.

The statute and the proposed rule require a covered institution to develop an information security program to safeguard customer information. Developing such a program involves assessing risks to customer information, establishing policies, procedures, and training to control risks, testing the program's effectiveness, and managing and monitoring service providers. OTS believes that establishing an information security program is a sound business practice for covered institutions. However, some institutions may need to establish or enhance information security programs. The cost of doing so is unknown. OTS seeks information and comment on the costs of establishing and operating information security programs.

Compliance with the proposed rule would require professional skills, especially skills of computer hardware and software professionals. Professional skills would be necessary to assess information security needs, design and

[7] For purposes of the Regulatory Flexibility Act, a small savings association is one with less that $100 million in assets. 13 CFR 121.201 (Division H).

implement an information security program, and to monitor service providers. The particular skills needed will depend on the nature of each institution's customer information systems. Institutions with sophisticated and extensive computerization would need far more skills to comply with the proposed rules than would institutions with little computerization. As a result, small entities are likely to have less burdensome compliance needs than large entities.

*E. Significant Alternatives*

The G–L–B Act requires OTS to establish standards for information security standards, but does not mandate the specific form that those standards must take. OTS has considered different alternatives for these standards, considering the burden on small institutions. OTS considered exempting small institutions entirely from the requirement to implement any information security standards. However, OTS does not believe that Congress has authorized OTS to exempt small institutions. Section 501(b) of the G–L–B Act requires OTS to establish standards for the institutions within OTS's jurisdiction, without regard to the institution's size.

OTS has also considered an alternative of publishing standards using language the same, or nearly the same, as that in section 501(b) of the G–L–B Act. The statutory language is broad and general. This alternative would give institutions maximum flexibility in implementing information security protections. It would also ensure that institutions would not be at a competitive disadvantage with other types of financial institutions not subject to the Agencies' information security standards. This alternative has disadvantages, however. Because the statutory language is very general, this alternative would not give institutions information about what risks need to be addressed or what types of protections are appropriate. Small institutions in particular may need guidance in this area. OTS welcomes comments on whether the proposed guidelines have too much or too little detail. How would changing the level of detail affect institutions' security practices?

OTS has proposed guidelines that would describe appropriate steps institutions must take to ensure the security of their customer information. While describing appropriate steps, OTS proposes flexible guidelines to let each institution design individual information standards appropriate for the institution's particular circumstances.

OTS is considering whether to adopt the proposed information security standards as guidance or as a regulation. OTS solicits comments on whether the regulatory burden on small entities would differ depending on the form of the standards. If so, how and to what extent?

OTS welcomes comments on the appropriateness of its approach, and on any other alternatives that would satisfy the objectives of this proposal.

*F. Federal Rules That Duplicate, Overlap, or Conflict With the Proposal*

OTS is unaware of any statutes or rules that would overlap or conflict with the requirement to develop and implement an information security program. OTS seeks comment and information about any such statutes or rules, as well as other rules or policies that require covered institutions to implement business practices that would comply with the proposed guidelines.

*C. Executive Order 12866*

*OCC:* The Comptroller of the Currency has determined that this proposed rule, if adopted as a final rule, does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866. The OCC issued the proposed Guidelines in accordance with the requirements of Sections 501 and 505(b) of the G–L–B Act and not under its own authority. The standards established by the Guidelines reflect good business practices and guidance previously issued by the OCC and the FFIEC. Accordingly, the OCC believes that most institutions already have information security programs in place.

Nevertheless, the OCC acknowledges that the proposed Guidelines may impose costs on some institutions by requiring them to formalize or enhance their existing information security programs. Therefore, the OCC invites institutions and the public to provide any cost estimates and related data that they think would be useful to the agency in evaluating the overall costs of the proposed Guidelines. The OCC will review any comments and cost data provided carefully and will revisit the cost aspects of the proposed Guidelines in developing the final rule.

*OTS:* OTS has determined that this proposed rule, if adopted as a final rule, would not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866. OTS issued the proposed guidelines as required by sections 501 and 505(b) of the G–L–B Act and not under its own authority. The guidelines reflect good business practices that many institutions already follow. Further, OTS believes that any costs of complying with the guidelines would be below the thresholds prescribed in the Executive Order. Nevertheless, OTS acknowledges that the proposed guidelines may impose costs on some institutions by requiring them to formalize or enhance their existing information security programs. Therefore, OTS invites institutions and the public to provide any cost estimates and related data that they think would be useful to the agency in evaluating the overall costs of the proposed guidelines. OTS will carefully review any comments and cost data provided and will revisit the cost aspects of the proposed guidelines in developing the final rule.

*D. Unfunded Mandates Act of 1995*

*OCC:* Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. However, an agency is not required to assess the effects of its regulatory actions on the private sector to the extent that such regulations incorporate requirements specifically set forth in law. 2 U.S.C. 1531.

The OCC believes that most institutions have already established an information security program because it is a sound business practice that also has been addressed in existing supervisory guidance. Therefore, the OCC has determined that this proposed rule is unlikely to result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

*OTS:* Section 202 of the Unfunded Mandates Act requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also

requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. However, an agency is not required to assess the effects of its regulatory actions on the private sector to the extent that such regulations incorporate requirements specifically set forth in law. 2 U.S.C. 1531.

OTS has determined that this proposed rule is unlikely to result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, the OTS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives, except as described in the OTS's initial regulatory flexibility analysis earlier in this preamble.

**IV. Solicitation of Comments on Use of Plain Language**

Section 722 of the G–L–B Act requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the Guidelines clearly stated? If not, how could the Guidelines be more clearly stated?
- Do the Guidelines contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the Guidelines easier to understand? If so, what changes to the format would make the Guidelines easier to understand?
- Would more, but shorter, sections be better? If so which sections should be changed?
- What else could we do to make the Guidelines easier to understand?

**List of Subjects**

*12 CFR Part 30*

Banks, banking, Consumer protection, National banks, Privacy, Reporting and recordkeeping requirements.

*12 CFR Part 208*

Banks, banking, Consumer protection, Federal Reserve System, Foreign banking, Holding companies, Information, Privacy, Reporting and recordkeeping requirements.

*12 CFR Part 211*

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Privacy, Reporting and recordkeeping requirements.

*12 CFR Part 225*

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Privacy, Reporting and recordkeeping requirements, securities.

*12 CFR Part 263*

Administrative practice and procedure, Claims, Crime, Equal access in justice, Federal Reserve System, Lawyers, Penalties.

*12 CFR Part 308*

Administrative practice and procedure, Banks, banking, Claims, Crime, Equal access of justice, Lawyers, Penalties, State nonmember banks.

*12 CFR Part 364*

Administrative practice and procedure, Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Safety and soundness.

*12 CFR Part 568*

Reporting and recordkeeping requirements, Savings associations, Security measures.

*12 CFR Part 570*

Consumer protection, Privacy, Savings associations.

**Office of the Comptroller of the Currency**

*12 CFR Chapter I*

Authority and Issuance

For the reasons set forth in the joint preamble, part 30 of the chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

## PART 30—SAFETY AND SOUNDNESS STANDARDS

1. The authority citation for part 30 is revised to read as follows:

**Authority:** 12 U.S.C. 93a, 1818, 1831p–1, 3102(b); 15 U.S.C. 6801, 6805(b)(1).

2. Revise § 30.1 to read as follows:

**§ 30.1 Scope.**

(a) This rule and the standards set forth in appendices A and B to this part apply to national banks and federal branches of foreign banks, that are subject to the provisions of section 39 of the Federal Deposit Insurance Act (section 39) (12 U.S.C. 1831p–1).

(b) The standards set forth in appendix B to this part also apply to uninsured national banks, federal branches and federal agencies of foreign banks, and the subsidiaries of any national bank, federal branch or federal agency of a foreign bank (except brokers, dealers, persons providing insurance, investment companies and investment advisers). Violation of these standards may be an unsafe and unsound practice within the meaning of 12 U.S.C. 1818.

3. In § 30.2, revise the last sentence to read as follows:

**§ 30.2 Purpose.**

* * * The Interagency Guidelines Establishing Standards for Safety and Soundness are set forth in appendix A to this part, and the Interagency Guidelines Establishing Standards for Safeguarding Customer Information are set forth in appendix B to this part.

4. In § 30.3, revise paragraph (a) to read as follows:

**§ 30.3 Determination and notification of failure to meet safety and soundness standard.**

(a) *Determination.* The OCC may, based upon an examination, inspection, or any other information that becomes available to the OCC, determine that a bank has failed to satisfy the safety and soundness standards contained in the Interagency Guidelines Establishing Standards for Safety and Soundness set forth in appendix A to this part, and the Interagency Guidelines Establishing Standards for Safeguarding Customer Information set forth in appendix B to this part.

* * * * *

5. Revise Appendix B to part 30 to read as follows:

**Appendix B to Part 30—Interagency Guidelines Establishing Standards For Safeguarding Customer Information**

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A. Involve the Board of Directors and Management
B. Assess Risk
C. Manage and Control Risk
D. Oversee Outsourcing Arrangements
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**I. Introduction**

The Interagency Guidelines Establishing Standards for Safeguarding Customer Information (Guidelines) set forth standards pursuant to section 39 of the Federal Deposit Insurance Act (section 39, codified at 12

U.S.C. 1831p–1), and sections 501 and 505(b), codified at 15 U.S.C. 6801 and 6805(b), of the Gramm-Leach-Bliley Act. These Guidelines address standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.

*A. Scope.* The Guidelines apply to customer information maintained by or on behalf of entities over which the OCC has authority. Such entities, referred to as ''the bank,'' are national banks, federal branches and federal agencies of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers).

*B. Preservation of Existing Authority.* Neither section 39 nor these Guidelines in any way limit the authority of the OCC to address unsafe or unsound practices, violations of law, unsafe or unsound conditions, or other practices. The OCC may take action under section 39 and these Guidelines independently of, in conjunction with, or in addition to, any other enforcement action available to the OCC.

*C. Definitions.* For purposes of the Guidelines, the following definitions apply:

*1. In general.* For purposes of the Guidelines, except as modified in the Guidelines or unless the context otherwise requires, the terms used have the same meanings as set forth in sections 3 and 39 of the Federal Deposit Insurance Act (12 U.S.C. 1813 and 1831p–1).

2. *Customer information* means any records, data, files, or other information containing nonpublic personal information, as defined in § 40.3(n) of this chapter, about a customer, whether in paper, electronic or other form, that are maintained by or on behalf of the bank.

3. *Customer* means any customer of the bank as defined in § 40.3(h) of this chapter.

4. *Service provider* means any person or entity that maintains or processes customer information on behalf of the bank, or is otherwise granted access to customer information through its provision of services to the bank.

5. *Board of directors,* in the case of a branch or agency of a foreign bank means the managing official in charge of the branch or agency.

6. *Customer information systems* means the electronic or physical methods used to access, collect, store, use, transmit and protect customer information.

**II. Standards for Safeguarding Customer Information**

*A. Information Security Program.* Each bank shall implement a comprehensive information security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the bank and the nature and scope of its activities.

*B. Objectives.* A bank's information security program shall:

1. Ensure the security and confidentiality of customer information;

2. Protect against any anticipated threats or hazards to the security or integrity of such information; and

3. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer or risk to the safety and soundness of the bank.

**III. Development and Implementation of Information Security Program**

*A. Involve the Board of Directors and Management.*

1. The board of directors of each bank shall:

a. Approve the bank's written information security policy and program that complies with these Guidelines; and

b. Oversee efforts to develop, implement, and maintain an effective information security program.

2. The bank's management shall develop, implement, and maintain an effective information security program. In conjunction with its responsibility to implement the bank's information security program, management of each bank shall regularly:

a. Evaluate the impact on the bank's security program of changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems;

b. Document its compliance with these Guidelines; and

c. Report to the board on the overall status of the information security program, including material matters related to the following: risk assessment; risk management and control decisions; results of testing; attempted or actual security breaches or violations and responsive actions taken by management; and any recommendations for improvements in the information security program.

*B. Assess Risk.* To achieve the objectives of its information security program, each bank shall:

1. Identify and assess the risks that may threaten the security, confidentiality, or integrity of customer information systems. As part of the risk assessment, a bank shall determine the sensitivity of customer information and the internal or external threats to the bank's customer information systems.

2. Assess the sufficiency of policies, procedures, customer information systems, and other arrangements in place to control risks.

3. Monitor, evaluate, and adjust its risk assessment in light of any relevant changes to technology, the sensitivity of customer information, and internal or external threats to information security.

*C. Manage and Control Risk.* As part of a comprehensive risk management plan, each bank shall:

1. Establish written policies and procedures that are adequate to control the identified risks and achieve the overall objectives of the bank's information security program. Policies and procedures shall be commensurate with the sensitivity of the information as well as the complexity and scope of the bank and its activities. In establishing the policies and procedures, each bank should consider appropriate:

a. Access rights to customer information;

b. Access controls on customer information systems, including controls to authenticate and grant access only to authorized individuals and companies;

c. Access restrictions at locations containing customer information, such as buildings, computer facilities, and records storage facilities;

d. Encryption of electronic customer information, including while in transit or in storage on networks or systems to which unauthorized individuals may have access;

e. Procedures to confirm that customer information system modifications are consistent with the bank's information security program;

f. Dual control procedures, segregation of duties, and employee background checks for employees with responsibilities for or access to customer information;

g. Contract provisions and oversight mechanisms to protect the security of customer information maintained or processed by service providers;

h. Monitoring systems and procedures to detect actual and attempted attacks on or intrusions into customer information systems;

i. Response programs that specify actions to be taken when unauthorized access to customer information systems is suspected or detected;

j. Protection against destruction of customer information due to potential physical hazards, such as fire and water damage; and

k. Response programs to preserve the integrity and security of customer information in the event of computer or other technological failure, including, where appropriate, reconstructing lost or damaged customer information.

2. Train staff to recognize, respond to, and, where appropriate, report to regulatory and law enforcement agencies, any unauthorized or fraudulent attempts to obtain customer information.

3. Regularly test the key controls, systems and procedures of the information security program to confirm that they control the risks and achieve the overall objectives of the bank's information security program. The frequency and nature of such tests should be determined by the risk assessment, and adjusted as necessary to reflect changes in internal and external conditions. Tests shall be conducted, where appropriate, by independent third parties or staff independent of those that develop or maintain the security programs. Test results shall be reviewed by independent third parties or staff independent of those that conducted the test.

4. Monitor, evaluate, and adjust, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, and internal or external threats to information security.

*D. Oversee Outsourcing Arrangements.* The bank continues to be responsible for safeguarding customer information even when it gives a service provider access to that

information. The bank must exercise appropriate due diligence in managing and monitoring its outsourcing arrangements to confirm that its service providers have implemented an effective information security program to protect customer information and customer information systems consistent with these Guidelines.

*E. Implement the Standards.* Each bank is to take appropriate steps to fully implement an information security program pursuant to these Guidelines by July 1, 2001.

Dated: June 5, 2000.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

**Federal Reserve System**

*12 CFR Chapter II*

Authority and Issuance

For the reasons set forth in the joint preamble, parts 208, 211, 225, and 263 of chapter II of title 12 of the Code of Federal Regulations are proposed to be amended as follows:

## PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for 12 CFR part 208 is revised to read as follows:

**Authority:** 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1823(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78*l*(b), 78*l*(g), 78l(i), 78o–4(c)(5), 78q, 78q–1, 78w, 6801, and 6805; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. Amend § 208.3 to revise paragraph (d)(1) to read as follows:

**§ 208.3 Application and conditions for membership in the Federal Reserve System.**

* * * * *

(d) *Conditions of membership.* (1) *Safety and soundness.* Each member bank shall at all times conduct its business and exercise its powers with due regard to safety and soundness. Each member bank shall comply with the Interagency Guidelines Establishing Standards for Safety and Soundness prescribed pursuant to section 39 of the FDI Act (12 U.S.C. 1831p–1), set forth in appendix D–1 to this part, and the Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805), set forth in appendix D–2 to this part.

* * * * *

3. Revise appendix D–2 to read as follows:

**Appendix D–2 To Part 208—Interagency Guidelines Establishing Standards For Safeguarding Customer Information**

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A. Involve the Board of Directors and Management
B. Assess Risk
C. Manage and Control Risk
D. Oversee Outsourcing Arrangements
E. Implement the Standards

**I. Introduction**

These Interagency Guidelines Establishing Standards for Safeguarding Customer Information (Guidelines) set forth standards pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805), in the same manner, to the extent practicable, as standards prescribed pursuant to section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1). These Guidelines address standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.

*A. Scope.* The Guidelines apply to customer information maintained by or on behalf of state member banks (banks) and their nonbank subsidiaries, except for brokers, dealers, persons providing insurance, investment companies, and investment advisors. Pursuant to §§ 211.9 and 211.24 of this chapter, these guidelines also apply to customer information maintained by or on behalf of Edge corporations, agreement corporations, and uninsured state-licensed branches or agencies of a foreign bank.

*B. Preservation of Existing Authority.* Neither section 39 nor these Guidelines in any way limit the authority of the Board to address unsafe or unsound practices, violations of law, unsafe or unsound conditions, or other practices. The Board may take action under section 39 and these Guidelines independently of, in conjunction with, or in addition to, any other enforcement action available to the Board.

*C. Definitions.* For purposes of the Guidelines, the following definitions apply:

1. *In general.* For purposes of the Guidelines, except as modified in the Guidelines or unless the context otherwise requires, the terms used have the same meanings as set forth in sections 3 and 39 of the Federal Deposit Insurance Act (12 U.S.C. 1813 and 1831p–1).

2. *Customer information* means any records, data, files, or other information containing nonpublic personal information, as defined in § 216.3(n) of this chapter, about a customer, whether in paper, electronic or other form, that are maintained by or on behalf of the bank.

3. *Customer* means any customer of the bank as defined in § 216.3(h) of this chapter.

4. *Service provider* means any person or entity that maintains or processes customer information on behalf of the bank, or is otherwise granted access to customer information through its provision of services to the bank.

5. *Board of directors,* in the case of a branch or agency of a foreign bank means the managing official in charge of the branch or agency.

6. *Customer information systems* means the electronic or physical methods used to access, collect, store, use, transmit and protect customer information.

7. *Subsidiary* means any company controlled by a bank, except a broker, dealer, person providing insurance, investment company, investment advisor, insured depository institution, or subsidiary of an insured depository institution.

**II. Standards for Safeguarding Customer Information**

*A. Information Security Program.* Each bank shall implement a comprehensive information security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the bank and the nature and scope of its activities. A bank also shall ensure that each of its subsidiaries is subject to a comprehensive information security program. The bank may fulfill this requirement either by including a subsidiary within the scope of the bank's comprehensive information security program or by causing the subsidiary to implement a separate comprehensive information security program in accordance with the standards and procedures in sections II and III of this appendix that apply to banks.

*B. Objectives.* A bank's information security program shall:

1. Ensure the security and confidentiality of customer information;

2. Protect against any anticipated threats or hazards to the security or integrity of such information; and

3. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer or risk to the safety and soundness of the bank.

**III. Development and Implementation of Information Security Program**

*A. Involve the Board of Directors and Management.*

1. The board of directors of each bank shall:

a. Approve the bank's written information security policy and program that complies with these Guidelines; and

b. Oversee efforts to develop, implement, and maintain an effective information security program.

2. The bank's management shall develop, implement, and maintain an effective information security program. In conjunction with its responsibility to implement the bank's information security program, management of each bank shall regularly:

a. Evaluate the impact on the bank's security program of changing business arrangements, such as mergers and acquisitions, alliances and joint ventures,

outsourcing arrangements, and changes to customer information systems;

b. Document its compliance with these Guidelines; and

c. Report to the board on the overall status of the information security program, including material matters related to: risk assessment; risk management and control decisions; results of testing; attempted or actual security breaches or violations and responsive actions taken by management; and any recommendations for improvements in the information security program.

*B. Assess Risk.* To achieve the objectives of its information security program, each bank shall:

1. Identify and assess the risks that may threaten the security, confidentiality, or integrity of customer information systems. As part of the risk assessment, a bank shall determine the sensitivity of customer information and the internal or external threats to the bank's customer information systems.

2. Assess the sufficiency of policies, procedures, customer information systems, and other arrangements in place to control risk.

3. Monitor, evaluate, and adjust its risk assessment in light of any relevant changes to technology, the sensitivity of customer information, and internal or external threats to information security.

*C. Manage and Control Risk.* As part of a comprehensive risk management plan, each bank shall:

1. Establish written policies and procedures that are adequate to control the identified risks and achieve the overall objectives of the bank's information security program. Policies and procedures shall be commensurate with the sensitivity of the information as well as the complexity and scope of the bank and its activities. In establishing the policies and procedures, each bank should consider appropriate:

a. Access rights to customer information;

b. Access controls on customer information systems, including controls to authenticate and grant access only to authorized individuals and companies;

c. Access restrictions at locations containing customer information, such as buildings, computer facilities, and records storage facilities;

d. Encryption of electronic customer information, including while in transit or in storage on networks or systems to which unauthorized individuals may have access;

e. Procedures to confirm that customer information system modifications are consistent with the bank's information security program;

f. Dual control procedures, segregation of duties, and employee background checks for employees with responsibilities for or access to customer information;

g. Contract provisions and oversight mechanisms to protect the security of customer information maintained or processed by service providers;

h. Monitoring systems and procedures to detect actual and attempted attacks on or intrusions into customer information systems;

i. Response programs that specify actions to be taken when unauthorized access to customer information systems is suspected or detected;

j. Protection against destruction of customer information due to potential physical hazards, such as fire and water damage; and

k. Response programs to preserve the integrity and security of customer information in the event of computer or other technological failure, including, where appropriate, reconstructing lost or damaged customer information.

2. Train staff to recognize, respond to, and, where appropriate, report to regulatory and law enforcement agencies, any unauthorized or fraudulent attempts to obtain customer information.

3. Regularly test the key controls, systems and procedures of the information security program to confirm that they control the risks and achieve the overall objectives of the bank's information security program. The frequency and nature of such tests should be determined by the risk assessment, and adjusted as necessary to reflect changes in internal and external conditions. Tests shall be conducted, where appropriate, by independent third parties or staff independent of those that develop or maintain the security programs. Test results shall be reviewed by independent third parties or staff independent of those that conducted the test.

4. Monitor, evaluate, and adjust, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, and internal or external threats to information security.

*D. Oversee Outsourcing Arrangements.* The bank continues to be responsible for safeguarding customer information even when it gives a service provider access to that information. The bank must exercise appropriate due diligence in managing and monitoring its outsourcing arrangements to confirm that its service providers have implemented an effective information security program to protect customer information and customer information systems consistent with these Guidelines.

*E. Implement the Standards.* Each bank is to take appropriate steps to fully implement an information security program pursuant to these Guidelines by July 1, 2001.

## PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

4. The authority citation for part 211 is revised to read as follows:

**Authority:** 12 U.S.C. 221 *et seq.*, 1818, 1835a, 1841 *et seq.*, 3101 *et seq.*, and 3901 *et seq.*; 15 U.S.C. 6801 and 6805.

5. Add new § 211.9 to read as follows:

### § 211.9 Protection of customer information.

An Edge or agreement corporation shall comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805), set forth in appendix D–2 to part 208 of this chapter.

6. In § 211.24, add new paragraph (i) to read as follows:

### § 211.24 Approval of offices of foreign banks; procedures for applications; standards for approval; representative-office activities and standards for approval; preservation of existing authority; reports of crimes and suspected crimes; government securities sales practices.

* * * * *

(i) *Protection of customer information.* An uninsured state-licensed branch or agency of a foreign bank shall comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805), set forth in appendix D–2 to part 208 of this chapter.

## PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

7. The authority citation for part 225 is revised to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909; 15 U.S.C. 6801 and 6805.

8. In § 225.1, add new paragraph (c)(16) to read as follows:

### § 225.1 Authority, purpose, and scope.

* * * * *

(c) * * *

(16) *Appendix F* contains the Interagency Guidelines Establishing Standards for Safeguarding Customer Information.

9. In § 225.4, add new paragraph (g) to read as follows:

### § 225.4 Corporate practices.

* * * * *

(g) *Protection of nonpublic personal information.* A bank holding company, including a bank holding company that is a financial holding company, shall comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, as set forth in appendix F of this part, prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805).

10. Add new appendix F to read as follows:

## Appendix F To Part 225—Interagency Guidelines Establishing Standards For Safeguarding Customer Information

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E. Implement the Standards

## I. Introduction

These Interagency Guidelines Establishing Standards for Safeguarding Customer Information (Guidelines) set forth standards pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805). These Guidelines address standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.

*A. Scope.* The Guidelines apply to customer information maintained by or on behalf of bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisors), for which the Board has supervisory authority.

*B. Preservation of Existing Authority.* These Guidelines do not in any way limit the authority of the Board to address unsafe or unsound practices, violations of law, unsafe or unsound conditions, or other practices. The Board may take action to enforce these Guidelines independently of, in conjunction with, or in addition to, any other enforcement action available to the Board.

*C. Definitions.* For purposes of the Guidelines, the following definitions apply:

1. *In general.* For purposes of the Guidelines, except as modified in the Guidelines or unless the context otherwise requires, the terms used have the same meanings as set forth in sections 3 and 39 of the Federal Deposit Insurance Act (12 U.S.C. 1813 and 1831p–1).

2. *Customer information* means any records, data, files, or other information containing nonpublic personal information, as defined in § 216.3(n) of this chapter, about a customer, whether in paper, electronic or other form, that are maintained by or on behalf of the bank holding company.

3. *Customer* means any customer of the bank holding company as defined in § 216.3(h) of this chapter.

4. *Service provider* means any person or entity that maintains or processes customer information on behalf of the bank holding company, or is otherwise granted access to customer information through its provision of services to the bank holding company.

5. *Board of directors,* in the case of a branch or agency of a foreign bank means the managing official in charge of the branch or agency.

6. *Customer information systems* means the electronic or physical methods used to access, collect, store, use, transmit and protect customer information.

7. *Subsidiary* means any company controlled by a bank holding company, except a broker, dealer, person providing insurance, investment company, investment advisor, insured depository institution, or subsidiary of an insured depository institution.

## II. Standards for Safeguarding Customer Information

*A. Information Security Program.* Each bank holding company shall implement a comprehensive information security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the bank holding company and the nature and scope of its activities. A bank holding company also shall ensure that each of its subsidiaries is subject to a comprehensive information security program. The bank holding company may fulfill this requirement either by including a subsidiary within the scope of the bank holding company's comprehensive information security program or by causing the subsidiary to implement a separate comprehensive information security program in accordance with the standards and procedures in sections II and III of this appendix that apply to bank holding companies.

*B. Objectives.* A bank holding company's information security program shall:

1. Ensure the security and confidentiality of customer information;

2. Protect against any anticipated threats or hazards to the security or integrity of such information; and

3. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer or risk to the safety and soundness of the bank holding company.

## III. Development and Implementation of Information Security Program

*A. Involve the Board of Directors and Management.*

1. The board of directors of each bank holding company shall:

a. Approve the bank holding company's written information security policy and program that complies with these Guidelines; and

b. Oversee efforts to develop, implement, and maintain an effective information security program.

2. The bank holding company's management shall develop, implement, and maintain an effective information security program. In conjunction with its responsibility to implement the bank holding company's information security program, management of each bank holding company shall regularly:

a. Evaluate the impact on the bank holding company's security program of changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems;

b. Document its compliance with these Guidelines; and

c. Report to the board on the overall status of the information security program, including material matters related to: risk assessment; risk management and control decisions; results of testing; attempted or actual security breaches or violations and responsive actions taken by management; and any recommendations for improvements in the information security program.

*B. Assess Risk.* To achieve the objectives of its information security program, each bank holding company shall:

1. Identify and assess the risks that may threaten the security, confidentiality, or integrity of customer information systems. As part of the risk assessment, a bank holding company shall determine the sensitivity of customer information and the internal or external threats to the bank holding company's customer information systems.

2. Assess the sufficiency of policies, procedures, customer information systems, and other arrangements in place to control risks identified in section III.B.1 of this appendix.

3. Monitor, evaluate, and adjust its risk assessment in light of any relevant changes to technology, the sensitivity of customer information, and internal or external threats to information security.

*C. Manage and Control Risk.* As part of a comprehensive risk management plan, each bank holding company shall:

1. Establish written policies and procedures that are adequate to control the identified risks and achieve the overall objectives of the bank holding company's information security program. Policies and procedures shall be commensurate with the sensitivity of the information as well as the complexity and scope of the bank holding company and its activities. In establishing the policies and procedures, each bank holding company should consider appropriate:

a. Access rights to customer information;

b. Access controls on customer information systems, including controls to authenticate and grant access only to authorized individuals and companies;

c. Access restrictions at locations containing customer information, such as buildings, computer facilities, and records storage facilities;

d. Encryption of electronic customer information, including while in transit or in storage on networks or systems to which unauthorized individuals may have access;

e. Procedures to confirm that customer information system modifications are consistent with the bank holding company's information security program;

f. Dual control procedures, segregation of duties, and employee background checks for employees with responsibilities for or access to customer information;

g. Contract provisions and oversight mechanisms to protect the security of customer information maintained or processed by service providers;

h. Monitoring systems and procedures to detect actual and attempted attacks on or intrusions into customer information systems;

i. Response programs that specify actions to be taken when unauthorized access to customer information systems is suspected or detected;

j. Protection against destruction of customer information due to potential physical hazards, such as fire and water damage; and

k. Response programs to preserve the integrity and security of customer information in the event of computer or other technological failure, including, where appropriate, reconstructing lost or damaged customer information.

2. Train staff to recognize, respond to, and, where appropriate, report to regulatory and law enforcement agencies, any unauthorized or fraudulent attempts to obtain customer information.

3. Regularly test the key controls, systems and procedures of the information security program to confirm that they control the risks and achieve the overall objectives of the bank holding company's information security program. The frequency and nature of such tests should be determined by the risk assessment, and adjusted as necessary to reflect changes in internal and external conditions. Tests shall be conducted, where appropriate, by independent third parties or staff independent of those that develop or maintain the security programs. Test results shall be reviewed by independent third parties or staff independent of those that conducted the test.

4. Monitor, evaluate, and adjust, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, and internal or external threats to information security.

*D. Oversee Outsourcing Arrangements.* The bank holding company continues to be responsible for safeguarding customer information even when it gives a service provider access to that information. The bank holding company must exercise appropriate due diligence in managing and monitoring its outsourcing arrangements to confirm that its service providers have implemented an effective information security program to protect customer information and customer information systems consistent with these Guidelines.

*E. Implement the Standards.* Each bank holding company is to take appropriate steps to fully implement an information security program pursuant to these Guidelines by July 1, 2001.

## PART 263—RULES OF PRACTICE FOR HEARINGS

11. The authority citation for part 263 is revised to read as follows:

**Authority:** 5 U.S.C. 504; 12 U.S.C. 248, 324, 504, 505, 1817(j), 1818, 1828(c), 1831o, 1831p–1, 1847(b), 1847(d), 1884(b), 1972(2)(F), 3105, 3107, 3108, 3907, 3909; 15 U.S.C. 21, 78o–4, 78o–5, 78u–2, 6801, 6805; and 28 U.S.C. 2461 note.

12. Amend § 263.302 to revise paragraph (a) to read as follows:

### § 263.302 Determination and notification of failure to meet safety and soundness standard and request for compliance plan.

(a) *Determination.* The Board may, based upon an examination, inspection, or any other information that becomes available to the Board, determine that a bank has failed to satisfy the safety and soundness standards contained in the Interagency Guidelines Establishing Standards for Safety and Soundness or the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, set forth in appendices D–1 and D–2 to part 208 of this chapter, respectively.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 13, 2000.

**Jennifer J. Johnson,**

*Secretary of the Board.*

**Federal Deposit Insurance Corporation**

*12 CFR Chapter III*

Authority and Issuance

For the reasons set forth in the joint preamble, parts 308 and 364 of chapter III of title 12 of the Code of Federal Regulation are proposed to be amended as follows:

## PART 308—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 308 continues to read as follows:

**Authority:** 5 U.S.C. 504, 554–557; 12 U.S.C. 93(b), 164, 505, 1815(e), 1817, 1818, 1820, 1828, 1829, 1829b, 1831i, 1831o, 1831p–1, 1832(c), 1884(b), 1972, 3102, 3108(a), 3349, 3909, 4717; 15 U.S.C. 78(h) and (i), 78o–4(c), 78o–5, 78q–1, 78s, 78u, 78u–2, 78u–3 and 78w; 28 U.S.C. 2461 note; 31 U.S.C. 330, 5321; 42 U.S.C. 4012a; sec. 31001(s), Pub. L. 104–134, 110 Stat. 1321–358.

1. Amend § 308.302 to revise paragraph (a) to read as follows:

### § 308.302 Determination and notification of failure to meet a safety and soundness standard and request for compliance plan.

*(a) Determination.* The FDIC may, based upon an examination, inspection, or any other information that becomes available to the FDIC, determine that a bank has failed to satisfy the safety and soundness standards set out in part 364 of this chapter and in the Interagency Guidelines Establishing Standards for Safety and Soundness in appendix A and the Interagency Guidelines Establishing Standards for Safeguarding Customer Information in appendix B to part 364 of this chapter.

* * * * *

## PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

2. The authority citation for part 364 is revised to read as follows:

**Authority:** 12 U.S.C. 1818 (Tenth), 1831p–1; 15 U.S.C. 6801(b), 6805(b)(1).

3. Amend § 364.101 to revise paragraph (b) to read as follows:

### § 364.101 Standards for safety and soundness.

* * * * *

(b) *Interagency Guidelines Establishing Standards for Safeguarding Customer Information.* The Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1) and sections 501 and 505(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801, 6805(b)), as set forth in appendix B to this part, apply to all insured state nonmember banks, insured state licensed branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers).

4. Revise Appendix B to Part 364 to read as follows:

**Appendix B to Part 364—Interagency Guidelines Establishing Standards for Safeguarding Customer Information**

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E. Implement the Standards

**I. Introduction**

The Interagency Guidelines Establishing Standards for Safeguarding Customer Information (Guidelines) set forth standards pursuant to section 39 of the Federal Deposit Insurance Act (section 39, codified at 12 U.S.C. 1831p–1), and sections 501 and 505(b), codified at 15 U.S.C. 6801 and 6805(b), of the Gramm-Leach-Bliley Act. These Guidelines address standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.

*A. Scope.* The Guidelines apply to customer information maintained by or on behalf of entities for which the Federal Deposit Insurance Corporation (FDIC) has authority. Such entities are referred to in this appendix as ''the bank.'' These are banks insured by the FDIC (other than members of the Federal Reserve System), insured state branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers).

*B. Preservation of Existing Authority.* Neither section 39 nor these Guidelines in any way limit the authority of the FDIC to address unsafe or unsound practices, violations of law, unsafe or unsound conditions, or other practices. The FDIC may take action under section 39 and these Guidelines independently of, in conjunction with, or in addition to, any other enforcement action available to the FDIC.

*C. Definitions.* For purposes of the Guidelines, the following definitions apply:

1. *In general.* For purposes of the Guidelines, except as modified in the Guidelines or unless the context otherwise requires, the terms used have the same meanings as set forth in sections 3 and 39 of the Federal Deposit Insurance Act (12 U.S.C. 1813 and 1831p–1).

2. *Customer information* means any records, data, files, or other information containing nonpublic personal information, as defined in § 332.3(n) of this chapter (the Privacy Rule), about a customer, whether in paper, electronic or other form, that are maintained by or on behalf of the bank.

3. *Customer* means any customer of the bank as defined in § 332.3(h) of this chapter.

4. *Service provider* means any person or entity that maintains or processes customer information on behalf of the bank, or is otherwise granted access to customer information through its provision of services to the bank.

5. *Board of directors,* in the case of a branch or agency of a foreign bank means the managing official in charge of the branch or agency.

6. *Customer information systems* means the electronic or physical methods used to access, collect, store, use, transmit and protect customer information.

**II. Standards for Safeguarding Customer Information**

A. *Information Security Program.* Each bank shall implement a comprehensive information security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the bank and the nature and scope of its activities.

B. *Objectives.* A bank's information security program shall:

1. Ensure the security and confidentiality of customer information;

2. Protect against any anticipated threats or hazards to the security or integrity of such information; and

3. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer or risk to the safety and soundness of the bank.

**III. Development and Implementation of Information Security Program**

*A. Involve the Board of Directors and Management.*

1. The board of directors of each bank shall:

a. Approve the bank's written information security policy and program that complies with these Guidelines; and

b. Oversee efforts to develop, implement, and maintain an effective information security program.

2. The bank's management shall develop, implement, and maintain an effective information security program. In conjunction with its responsibility to implement the bank's information security program, management of each bank shall regularly:

a. Evaluate the impact on the bank's security program of changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems;

b. Document its compliance with these Guidelines; and

c. Report to the board on the overall status of the information security program, including material matters related to: risk assessment; risk management and control decisions; results of testing; attempted or actual security breaches or violations and responsive actions taken by management; and any recommendations for improvements in the information security program.

*B. Assess Risk.* To achieve the objectives of its information security program, each bank shall:

1. Identify and assess the risks that may threaten the security, confidentiality, or integrity of customer information systems. As part of the risk assessment, a bank shall determine the sensitivity of customer information and the internal or external threats to the bank's customer information systems.

2. Assess the sufficiency of policies, procedures, customer information systems, and other arrangements in place to control risks.

3. Monitor, evaluate, and adjust its risk assessment in light of any relevant changes to technology, the sensitivity of customer information, and internal or external threats to information security.

C. *Manage and Control Risk.* As part of a comprehensive risk management plan, each bank shall:

1. Establish written policies and procedures that are adequate to control the identified risks and achieve the overall objectives of the bank's information security program. Policies and procedures shall be commensurate with the sensitivity of the information as well as the complexity and scope of the bank and its activities. In establishing the policies and procedures, each bank should consider appropriate:

a. Access rights to customer information;

b. Access controls on customer information systems, including controls to authenticate and grant access only to authorized individuals and companies;

c. Access restrictions at locations containing customer information, such as buildings, computer facilities, and records storage facilities;

d. Encryption of electronic customer information, including while in transit or in storage on networks or systems to which unauthorized individuals may have access;

e. Procedures to confirm that customer information system modifications are consistent with the bank's information security program;

f. Dual control procedures, segregation of duties, and employee background checks for employees with responsibilities for or access to customer information;

g. Contract provisions and oversight mechanisms to protect the security of

customer information maintained or processed by service providers;

h. Monitoring systems and procedures to detect actual and attempted attacks on or intrusions into customer information systems;

i. Response programs that specify actions to be taken when unauthorized access to customer information systems is suspected or detected;

j. Protection against destruction of customer information due to potential physical hazards, such as fire and water damage; and

k. Response programs to preserve the integrity and security of customer information in the event of computer or other technological failure, including, where appropriate, reconstructing lost or damaged customer information.

2. Train staff to recognize, respond to, and, where appropriate, report to regulatory and law enforcement agencies, any unauthorized or fraudulent attempts to obtain customer information.

3. Regularly test the key controls, systems and procedures of the information security program to confirm that they control the risks and achieve the overall objectives of your information security program. The frequency and nature of such tests should be determined by the risk assessment, and adjusted as necessary to reflect changes in internal and external conditions. Tests shall be conducted, where appropriate, by independent third parties or staff independent of those that develop or maintain the security programs. Test results shall be reviewed by independent third parties or staff independent of those that conducted the test.

4. Monitor, evaluate, and adjust, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, and internal or external threats to information security.

*D. Oversee Outsourcing Arrangements.* The bank continues to be responsible for safeguarding customer information even when it gives a service provider access to that information. The bank must exercise appropriate due diligence in managing and monitoring your outsourcing arrangements to confirm that your service providers have implemented an effective information security program to protect customer information and customer information systems consistent with these Guidelines.

*E. Implement the Standards.* Each bank is to take appropriate steps to fully implement an information security program pursuant to these Guidelines by July 1, 2001.

By order of the Board of Directors.

Dated at Washington, D.C., this 6th day of June, 2000.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

## Office of Thrift Supervision

*12 CFR Chapter V*

Authority and Issuance

For the reasons set forth in the joint preamble, parts 568 and 570 of chapter V of title 12 of the Code of Federal regulations are proposed to be amended as follows:

## PART 568—SECURITY PROCEDURES

1. The authority citation for part 568 is revised to read as follows:

**Authority:** Secs. 2–5, 82 Stat. 294–295 (12 U.S.C. 1881–1984); 12 U.S.C. 1831p–1; 15 U.S.C. 6801, 6805(b)(1).

2. Amend § 568.1 to revise paragraph (a) to read as follows:

### § 568.1 Authority, purpose, and scope.

(a) This part is issued by the Office of Thrift Supervision (''OTS'') pursuant to section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882), and sections 501 and 505(b)(1) of the Gramm-Leach-Bliley Act (12 U.S.C. 6801, 6805(b)(1). This part is applicable to savings associations. It requires each savings association to adopt appropriate security procedures to discourage robberies, burglaries, and larcenies and to assist in the identification and prosecution of persons who commit such acts. Section 568.5 of this part is applicable to savings associations and their subsidiaries (except brokers, dealers, persons providing insurance, investment companies, and investment advisers). Section 568.5 of this part requires covered institutions to establish and implement appropriate administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.

* * * * *

3. Add § 568.5 to read as follows:

### § 568.5 Protection of customer information.

Savings associations and their subsidiaries (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) must comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805), set forth in appendix B to part 570 of this chapter.

## PART 570—SUBMISSION AND REVIEW OF SAFETY AND SOUNDNESS COMPLIANCE PLANS AND ISSUANCE OF ORDERS TO CORRECT SAFETY AND SOUNDNESS DEFICIENCIES

4. Amend § 570.1 to add a sentence to the end of paragraph (a) and revise the last sentence of paragraph (b) to read as follows:

### § 570.1 Authority, purpose, scope and preservation of existing authority.

(a) * * * Appendix B to this part is further issued under sections 501(b) and 505 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338 (1999)).

(b) * * * Interagency Guidelines Establishing Standards for Safeguarding Customer Information are set forth in appendix B to this part.

5. Amend § 570.2 to revise paragraph (a) to read as follows:

### § 570.2 Determination and notification of failure to meet safety and soundness stnadards and request for compliance plan.

(a) *Determination.* The OTS may, based upon an examination, inspection, or any other information that becomes available to the OTS, determine that a savings association has failed to satisfy the safety and soundness standards contained in the Interagency Guidelines Establishing Standards for Safety and Soundness as set forth in appendix A to this part or the Interagency Guidelines Establishing Standards for Safeguarding Customer Information as set forth in appendix B to this part.

* * * * *

6. Revise Appendix B to Part 570 to read as follows:

### Appendix B to Part 570—Interagency Guidelines Establishing Standards for Safeguarding Customer Information

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A. Scope
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**I. Introduction**

The Interagency Guidelines Establishing Standards for Safeguarding Customer Information (Guidelines) set forth standards pursuant to section 39 of the Federal Deposit Insurance Act (section 39, codified at 12 U.S.C. 1831p–1), and sections 501 and

505(b), codified at 15 U.S.C. 6801 and 6805(b), of the Gramm-Leach-Bliley Act. These Guidelines address standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.

A. *Scope.* The Guidelines apply to customer information maintained by or on behalf of entities for which OTS has authority. For purposes of this appendix, these entities are savings associations whose deposits are FDIC-insured and any subsidiaries of such savings associations, except brokers, dealers, persons providing insurance, investment companies, and investment advisers. This appendix refers to such entities as ''you.''

B. *Preservation of Existing Authority.* Neither section 39 nor these Guidelines in any way limit the OTS's authority to address unsafe or unsound practices, violations of law, unsafe or unsound conditions, or other practices. OTS may take action under section 39 and these Guidelines independently of, in conjunction with, or in addition to, any other enforcement action available to OTS.

C. *Definitions.* For purposes of the Guidelines, the following definitions apply:

1. *In general.* For purposes of the Guidelines, except as modified in the Guidelines or unless the context otherwise requires, the terms used have the same meanings as set forth in sections 3 and 39 of the Federal Deposit Insurance Act (12 U.S.C. 1813 and 1831p–1).

2. *Customer information* means any records, data, files, or other information containing nonpublic personal information, as defined in 12 CFR 573.3(n), about a customer, whether in paper, electronic or other form, that you maintain or that are maintained on your behalf.

3. *Customer* means any of your customers, as defined in 12 CFR 573.3(h).

4. *Service provider* means any person or entity that maintains or processes customer information on your behalf, or is otherwise granted access to customer information through its provision of services to you.

5. *Customer information systems* means the electronic or physical methods used to access, collect, store, use, transmit and protect customer information.

**II. Standards for Safeguarding Customer Information**

A. *Information Security Program.* You shall implement a comprehensive information security program that includes administrative, technical, and physical safeguards appropriate to your size and complexity and the nature and scope of your activities.

B. *Objectives.* Your information security program shall:

1. Ensure the security and confidentiality of customer information;

2. Protect against any anticipated threats or hazards to the security or integrity of such information; and

3. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer or risk to your safety and soundness.

**III. Development and Implementation of Information Security Program**

*A. Involve the Board of Directors and Management.*

1. Your board of directors shall:

a. Approve your written information security policy and program that complies with these Guidelines; and

b. Oversee efforts to develop, implement, and maintain an effective information security program.

2. Your management shall develop, implement, and maintain an effective information security program. In conjunction with its responsibility to implement your information security program, your management shall regularly:

a. Evaluate the impact on your security program of changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems;

b. Document its compliance with these Guidelines; and

c. Report to your board on the overall status of the information security program, including material matters related to; risk assessment; risk management and control decisions; results of testing; attempted or actual security breaches or violations and responsive actions taken by management; and any recommendations for improvements in the information security program.

B. *Assess Risk.* To achieve the objectives of its information security program, you shall:

1. Identify and assess the risks that may threaten the security, confidentiality, or integrity of customer information systems. As part of the risk assessment, you shall determine the sensitivity of customer information and the internal or external threats to your customer information systems.

2. Assess the sufficiency of policies, procedures, customer information systems, and other arrangements in place to control risks.

3. Monitor, evaluate, and adjust your risk assessment in light of any relevant changes to technology, the sensitivity of customer information, and internal or external threats to information security.

C. *Manage and Control Risk.* As part of a comprehensive risk management plan, you shall:

1. Establish written policies and procedures that are adequate to control the identified risks and achieve the overall objectives of your information security program. Policies and procedures shall be commensurate with the sensitivity of the information as well as the complexity and scope of you and your activities. In establishing the policies and procedures, you should consider appropriate:

a. Access rights to customer information;

b. Access controls on customer information systems, including controls to authenticate and grant access only to authorized individuals and companies;

c. Access restrictions at locations containing customer information, such as buildings, computer facilities, and records storage facilities;

d. Encryption of electronic customer information, including while in transit or in storage on networks or systems to which unauthorized individuals may have access;

e. Procedures to confirm that customer information system modifications are consistent with your information security program;

f. Dual control procedures, segregation of duties, and employee background checks for employees with responsibilities for or access to customer information;

g. Contract provisions and oversight mechanisms to protect the security of customer information maintained or processed by service providers;

h. Monitoring systems and procedures to detect actual and attempted attacks on or intrusions into customer information systems;

i. Response programs that specify actions to be taken when unauthorized access to customer information systems is suspected or detected;

j. Protection against destruction of customer information due to potential physical hazards, such as fire and water damage; and

k. Response programs to preserve the integrity and security of customer information in the event of computer or other technological failure, including, where appropriate, reconstructing lost or damaged customer information.

2. Train staff to recognize, respond to, and, where appropriate, report to regulatory and law enforcement agencies, any unauthorized or fraudulent attempts to obtain customer information.

3. Regularly test the key controls, systems and procedures of the information security program to confirm that they control the risks and achieve the overall objectives of your information security program. The frequency and nature of such tests should be determined by the risk assessment, and adjusted as necessary to reflect changes in internal and external conditions. Tests shall be conducted, where appropriate, by independent third parties or staff independent of those that develop or maintain the security programs. Test results shall be reviewed by independent third parties or staff independent of those that conducted the test.

4. Monitor, evaluate, and adjust, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, and internal or external threats to information security.

D. *Oversee Outsourcing Arrangements.* You continue to be responsible for safeguarding customer information even when you give a service provider access to that information. You must exercise appropriate due diligence in managing and monitoring your outsourcing arrangements to confirm that your service providers have implemented an effective information security program to protect customer information and customer information systems consistent with these Guidelines.

E. *Implement the Standards.* You are to take appropriate steps to fully implement an information security program pursuant to these Guidelines by July 1, 2001.

Dated: June 9, 2000.

By the Office of Thrift Supervision.

**Ellen Seidman,**

*Director.*

[FR Doc. 00–15798 Filed 6–23–00; 8:45 am]

**BILLING CODE 4810–33–P, 6210–01–P, 6714–01–P, 6720–01–P**

Federal Register

Monday,
June 26, 2000

## Part III

# Department of Education

**34 CFR Part 361**

**State Vocational Rehabilitation Services Program; Proposed Rule**

**DEPARTMENT OF EDUCATION**

**34 CFR Part 361**

**RIN 1820–AB52**

## State Vocational Rehabilitation Services Program

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations governing the State Vocational Rehabilitation Services Program (VR program) by revising the scope of available employment outcomes under the VR program. The proposed regulations would redefine the term ''employment outcome'' to include only those outcomes in which an individual with a disability works in an integrated setting. This action is necessary to reflect the purpose of Title I of the Rehabilitation Act of 1973, as amended (Act) (29 U.S.C. 701–744), which is to enable individuals with disabilities who participate in the VR program to achieve an appropriate employment outcome in the competitive, integrated labor market.

**DATES:** We must receive your comments by August 25, 2000.

**ADDRESSES:** Address all comments about these proposed regulations to Fredric K. Schroeder, U.S. Department of Education, 400 Maryland Avenue, SW., room 3028, Mary E. Switzer Building, Washington, DC 20202–2531. Comments also may be sent by facsimile to (202) 205–9874. If you prefer to send your comments through the Internet, use the following address: comments@ed.gov.

You must include the term ''VR Regulations—Employment Outcome'' in the subject line of your electronic message.

If you want to comment on the information collection requirements, you must send your comments to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. You may also send a copy of these comments to the Department representative named in this section.

**FOR FURTHER INFORMATION CONTACT:** Beverlee Stafford, U.S. Department of Education, 400 Maryland Avenue, SW., room 3014, Mary E. Switzer Building, Washington, DC. 20202–2531. Telephone (202) 205–8831. If you use a telecommunications device for the deaf (TDD), you may call (202) 205–5538.

Individuals with disabilities may obtain this document in an alternate format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director, Alternate Formats Center, U.S. Department of Education, 400 Maryland Avenue, SW., room 1000, Mary E. Switzer Building, Washington, DC. 20202–2531. Telephone (202) 260–9895. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Invitation To Comment

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

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 these proposed regulations. 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 VR program.

During and after the comment period, you may inspect all public comments about these proposed regulations in room 3214, Mary E. Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

### Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

### Background

The State Vocational Rehabilitation Services Program (VR program) makes available to individuals with disabilities, particularly those with significant disabilities, necessary vocational rehabilitation (VR) services so that they may enter or continue to work in the competitive, integrated labor market along with the general population. The chief measure of success of a State VR agency's efforts in serving a participant in the VR program is whether the individual has achieved an appropriate employment outcome, in particular a high-quality, competitive job in an integrated setting. Integrated employment settings generally refer to those settings that are typically found in the community in which individuals with disabilities have the same opportunity to interact with others as is given to any other person (see 34 CFR 361.5(b)(30)(ii) of the current VR program regulations for a detailed definition). Accordingly, this notice of proposed rulemaking (NPRM) addresses the scope of available outcomes under the VR program in order to ensure that program participants attain jobs in the competitive, integrated labor market as the Act intends.

The statutory authority for the VR program, Title I of the Act, has, over time, placed greater and greater emphasis on integration, a fact further reflected in recent reauthorizations. As indicated in section 100(a)(1) of the Act, a provision retained in the 1998 Amendments to the Act, individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided. Recent legislative history also reflects Congress' commitment to ensuring that individuals with significant disabilities be able to progress to jobs in the competitive integrated job market (see *e.g.,* Senate Report 105–166, p. 13).

The scope of employment outcomes authorized under the VR program must be consistent with the definition of ''employment outcome'' in section 7(11) of the Act. That section of the Act, which explicitly refers only to employment outcomes that occur in integrated settings, defines ''employment outcome'' as full-time or, if appropriate, part-time competitive employment in the integrated labor market, supported employment, *or any other vocational outcome the Secretary may determine to be appropriate* (including the vocational outcome of self-employment, telecommuting, or business ownership), consistent with the requirements of the Act [emphasis added].

Thus, the Act entrusts the Secretary to determine the scope of employment outcomes, other than competitive employment (*i.e.,* integrated work at or

above minimum wage—see 34 CFR 361.5(b)(10)) and supported employment (integrated work with ongoing support services—see 34 CFR 361.5(b)(46)), which individuals with disabilities should pursue under the VR program consistent with the Act's requirements.

Through this NPRM, we are proposing to amend the current regulations governing the VR program (34 CFR part 361) to no longer consider extended employment (also referred to as non-integrated or sheltered employment) as an employment outcome under the VR program. We believe the proposed regulatory changes are necessary to implement the clear emphasis that the Act places on competitive employment and supported employment—outcomes that occur in integrated settings. At the same time, however, the proposed changes would not prohibit State VR agencies from serving individuals, or enabling individuals to work, in extended employment settings (also referred to as non-integrated or sheltered settings) if appropriate to the individual, but would ensure that those individuals are provided the services that they need to transition to the competitive labor market in the community.

On February 28, 2000, we published an NPRM (65 FR 10620) that would implement extensive changes to the current VR program regulations to reflect statutory changes made by the Rehabilitation Act Amendments of 1998 (1998 Amendments). As mentioned previously, the proposal in this new NPRM to change the regulatory definition of the term ''employment outcome,'' and to implement corresponding changes to other sections of the current regulations affected by the revised definition, are based not only on the 1998 Amendments, but on the emphasis that the Act, over time, has placed on enabling individuals in sheltered employment to transition to employment outcomes in the competitive, integrated labor market. Although these proposed changes were not developed in time to be included in the February 28 NPRM, we consider this new NPRM critical to realizing the full potential of individuals with significant disabilities. Thus, it is our intent to implement these new changes as part of the final regulations that follow the February 28 proposed regulations.

We also note that the proposed regulations would not exclude from the scope of ''employment outcomes'' under the VR program all positions obtained by individuals with disabilities under certain types of set-aside contracts authorized by the Javits-Wagner-O'Day Act (JWOD), 41 U.S.C. 46–48. For example, service-related jobs performed under JWOD contracts and in settings that satisfy the definition of ''integrated setting'' in 34 CFR 361.5(b)(30)(ii) (*i.e.,* a setting typically found in the community in which the VR program participant's interaction with non-disabled persons is the same as that experienced by a non-disabled person in a comparable position) would meet the definition of ''employment outcome'' in the proposed regulations. Those positions are to be contrasted with jobs in sheltered settings performed under JWOD contracts or other arrangements that are not integrated and would not be considered employment outcomes. The determination as to whether any job, including those obtained under JWOD contracts, meets the regulatory definition of ''integrated setting,'' and therefore qualifies as an ''employment outcome'' under the proposed regulations, should be made on a case-by-case basis.

**Section-by-Section Summary**

*Section 361.5 Applicable Definitions*

Employment Outcome; Extended Employment

The chief revision to the current regulations that would be implemented by this NPRM concerns the scope of outcomes, other than competitive employment and supported employment, covered under the definition of ''employment outcome.'' Specifically, the current regulatory definition would be changed to include only employment in integrated settings, meaning that jobs in sheltered or other non-integrated settings would no longer be recognized as ''employment outcomes'' under the VR program. In particular, ''extended employment,'' which is defined in both the current and proposed regulations as work in a non-integrated or sheltered setting for a nonprofit entity along with any support services that the individual needs in order to prepare for competitive employment, would not be an authorized employment outcome under the proposed regulations.

The changes to the current regulations proposed in this NPRM, while essential to fulfilling the expectation in the Act that individuals with disabilities are generally capable of pursuing competitive, integrated work in the community, should not cause great difficulty to State VR units in administering their programs. Under the current regulations, the VR program pays the short-term costs of services (*e.g.,* vocational evaluation, work adjustment, and other training services) that enable an individual to perform work in an extended employment setting. The ongoing costs of services associated with an individual who remains in extended employment are typically borne by other State and local resources. In addition, only a relatively small number of individuals exit the VR program after obtaining non-integrated employment (about 3.5% of outcomes nationwide in 1998, the most current data available). Thus, it is evident that many State units already have been deemphasizing non-integrated work as a final employment goal for some time. Those units have come to realize, as is reflected throughout the Act's legislative history, that in the past individuals with disabilities were too often inappropriately placed in sheltered settings as a final outcome rather than as a temporary placement from which the individual could transition to a job in the community.

The proposed regulations would continue to allow State units to use extended employment jobs as interim steps for VR program participants. The State unit, however, could only consider the individual to have achieved an employment outcome after the individual transitions to integrated work in the community. We believe this approach better reflects the relationship between the VR program and sheltered employment and is further supported by the relatively few VR program participants who engage in extended employment. To the extent extended employment continues to be used as a temporary worksite for an eligible individual under the VR program, the State unit should continue to provide services to that individual, but should not identify (for State or Federal reporting purposes, for purposes of satisfying VR program performance measures, etc.) that person's job as a successful outcome until the individual enters the integrated labor market in the community.

In addition, §§ 361.47 and 361.55 of the proposed regulations, which are discussed in the following paragraphs, specify recordkeeping and annual review requirements, respectively, that are designed to ensure that persons in extended employment receive necessary support in order to continue to pursue integrated employment. We believe that these proposed requirements, which are much the same as the recordkeeping and review requirements in the current regulations, and any burden associated with the proposed requirements, are necessary to ensure that persons are able to pursue high-quality competitive employment in the integrated labor market as the Act intends.

*Section 361.37 Establishment and Maintenance of Information and Referral Programs*

In order to ensure that individuals with disabilities who choose to work in an extended employment setting long-term, rather than pursue employment in an integrated setting under the VR program, are able to access the services they need, § 361.37(a) of the proposed regulations would require that State VR agencies refer these individuals to local extended employment providers. We are particularly interested in comments from community rehabilitation programs and other State and local service providers on the impact that the proposed regulations would have on those resources that currently pay most of the costs of serving individuals in extended employment. We also note that persons who initially choose to pursue extended employment and subsequently change their minds and seek competitive or other integrated employment can still access the VR system. Also, while we recognize that this proposed change would result in an additional responsibility being placed on the State VR agency, we believe that any burden associated with that responsibility is outweighed by the need to ensure that individuals who choose sheltered work can access State and local resources that support extended employment programs.

*Section 361.47 Record of Services*

We are proposing limited changes to the current regulations to reflect the proposed revisions to the definition of ''employment outcome'' and the review requirements in § 361.55.

In sum, proposed changes to paragraph (g) of this section would require a justification in the record of services for any decision on the part of the State unit to provide a VR program participant services in a non-integrated setting, including a decision to support the individual in extended employment as an initial step toward integrated employment. In addition, proposed paragraph (k) of this section would be added to the current regulations to require documentation of the annual reviews required under section 101(a)(14) of the Act and § 361.55 of the proposed regulations for individuals who achieved an authorized (*i.e.,* integrated) employment outcome but are compensated through a wage certificate under section 14(c) of the Fair Labor Standards Act (FLSA) (*e.g.,* individuals in supported employment who earn less than the minimum wage).

Finally, a State unit would also be required under the proposed changes to this section to document follow-up reviews when it closes the record of services for an individual in extended employment who chooses to remain there long-term or who the State unit determines cannot achieve integrated employment. As explained in the discussion on § 361.55, these individuals would not be considered to have achieved an employment outcome under the VR program.

It should be noted that each of the documentation requirements in the proposed regulations also is reflected in the February 28 NPRM referred to in the *Background* section of this preamble.

*Section 361.55 Annual Review of Individuals in Extended Employment and Other Employment Under Special Certificate Provisions of the Fair Labor Standards Act*

Removing extended employment from the scope of available employment outcomes under the discretion given to the Secretary under section 7(11)(C) of the Act necessitates changes to this section of the current regulations. Initially, it should be noted that the proposed regulations reflect the requirement in section 101(a)(14) of the Act and the current regulations that the State unit conduct an annual review of any VR program participant who has achieved an employment outcome (*i.e.,* integrated employment under the proposed regulations) but is compensated under a wage certificate as authorized in section 14(c) of the FLSA. With regard to those participants in the VR program who are still placed in extended employment, however, the State unit's future obligations under the proposed regulations would depend on a number of factors.

As indicated previously, we expect that most individuals in extended employment would perform that work temporarily as a means of training or otherwise preparing for competitive employment. Because the State unit would continue to provide services to these individuals and to review the individual's plan of services consistent with 102(b)(2)(E) of the Act until they successfully transition to a job in an integrated setting, that individual's record of services would remain open, and the review requirements in this revised section need not apply.

On the other hand, if the State unit decides to close the record of services of an individual in extended employment because it does not believe the individual can achieve integrated employment (*i.e.,* an employment outcome under the proposed regulations) or because the individual chooses to remain in extended employment, then the proposed regulations would continue to require that the State unit conduct an annual review and reevaluation (for 2 years and thereafter if requested by the individual) of the individual's readiness for competitive employment, that the individual be able to provide input into each review, and that the State unit make maximum efforts to assist the individual in transitioning to competitive employment.

**Effective Date of Changes**

Finally, we recognize that the proposed changes in this NPRM, while supported by the Act, represent a departure from the past practice of including non-integrated jobs among the scope of authorized employment outcomes. Thus, in order to minimize the impact that these proposed changes would have on State units or eligible individuals under the VR program, we are proposing that the changes to the current regulations in this NPRM take effect beginning in FY 2002 (*i.e.,* October 1, 2001). This delayed implementation date would give State units and other providers of VR services more than a year to take whatever steps may be necessary to meet the revised regulatory requirements. Most importantly, we expect that the time afforded will enable States to implement the proposed changes in a manner that is least disruptive to VR program beneficiaries. Nonetheless, we intend to provide necessary technical assistance to State units in order to assist those agencies in making the transition required by the proposed regulations. We also are particularly interested in comments on whether persons agree that the delayed implementation date will give States sufficient time to implement the proposed policy.

**Goals 2000: Educate America Act**

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These proposed regulations would address the National Education Goal that every adult American, including individuals with disabilities, will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

**Executive Order 12866**

*1. Potential Costs and Benefits*

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action. The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently. Elsewhere in this **SUPPLEMENTARY INFORMATION** section we identify and explain burdens specifically associated with information collection requirements. See the heading Paperwork Reduction Act of 1995.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, we have determined that the benefits would justify the costs.

We have also determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

**Summary of Potential Costs and Benefits**

We believe that the NPRM would substantially improve the State VR Services Program and would yield substantial benefits in terms of program management, efficiency, and effectiveness. The proposed regulatory changes would align the VR program appropriately with the statutory expectation that individuals with disabilities can in fact achieve employment in the competitive labor market. The proposed changes also include program requirements (*e.g.,* those related to referrals, documentation of service records, and reviews of persons in extended employment) that are designed to ensure that individuals with disabilities are supported in pursuing competitive jobs or are able to access other resources that can assist those who choose extended employment. We believe that the proposed regulations represent the least burdensome way to implement the Act and fulfill important policy objectives that we consider to be essential to the success of the program and to persons with disabilities.

Elsewhere in this preamble we discuss other potential costs and benefits of these proposed regulations under the following heading: Section-by-Section Summary.

*2. Clarity of the Regulations*

Executive Order 12866 and the President's Memorandum of June 1, 1998 on ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol and a numbered heading; for example, § 361.47 *Record of services.*)

- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. These proposed regulations would impact some community rehabilitation programs that currently operate extended employment programs, or execute Federal contracts under the Javits-Wagner-O'Day Act, for individuals with disabilities. Those facilities rely on the State VR Services Program, as well as other programs, for referrals of persons for whom sheltered employment is appropriate. However, since most costs of employing persons with disabilities in a sheltered setting are born by programs other than the State VR Services Program, and since State VR agencies could continue to provide support to persons in extended employment settings (without considering that work a successful employment outcome), we do not believe potential impact would be significant.

**Paperwork Reduction Act of 1995**

Section 361.47 contains information collection requirements that pertain to State recordkeeping, and section 361.55 contains information collection requirements under the State plan. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

**Collection of Information: State Vocational Rehabilitation Services Program**

The information to be collected includes State plan assurances to meet statutory requirements and other required information that the Department considers important to the efficient and effective administration of the VR program. Required information that is unrelated to the State plan is necessary for purposes of Department monitoring of program performance and compliance.

The Department needs and uses the information related to the State plan for the VR program in order to ensure compliance with Federal requirements. An approved State plan is necessary for a State to receive a grant under the VR program. All State plan assurances are reported once unless the State has submitted the information previously or determines that modifications are necessary, or the Secretary requires modifications due to changes in State policy, Federal law (including regulations), interpretation of the Act by a Federal court or the highest court in the State, or a finding by the Secretary of State noncompliance with the requirements of the Act.

As previously noted, the Department published an NPRM on February 28, 2000 (65 FR 10620) that proposed extensive changes to the regulations under this part in order to conform to the 1998 Amendments to the Act. In the February 28, 2000 NPRM, we estimated an annual reporting and recordkeeping burden for the collection of information to average 12,220 hours for each response for 82 respondents, or a total of 1,002,050 burden hours. The annual reporting and recordkeeping burden for the collection of information in this new NPRM is included in that total since the information collection requirements proposed in the new NPRM were included in the February 28, 2000 NPRM as well (although some of the requirements were located in other sections in the prior NPRM). Nonetheless, it is estimated that the actual burden for the information collection requirements in sections 361.47(g) and (k) and 361.55 would average 87 hours for each response for 82 respondents, including the time for reviewing instructions, searching existing data sources, gathering and

maintaining the data needed, and completing and reviewing the collection of information. Thus, we estimate the total annual reporting and recordkeeping burden for this specific collection to be 7,134 hours of the total 1,002,050 hours identified in the NPRM published on February 28, 2000.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20508; Attention: Desk Officer for U.S. Department of Education. You may also send a copy of these comments to the Department representative named in the **ADDRESSES** section of this preamble.

We consider your comments on this proposed collection of information in—

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This include exploring 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.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication. This does not affect the deadline for your comments to us on the proposed regulations.

**Intergovernmental Review**

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthening federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

**Assessment of Educational Impact**

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

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*http://ocfo.ed.gov/fedreg.htm*
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(Catalog of Federal Domestic Assistance Number: 84.126 State Vocational Rehabilitation Services Program)

**List of Subjects in 34 CFR Part 361**

Reporting and recordkeeping requirements, State-administered grant program—education, Vocational rehabilitation.

Dated: June 20, 2000.

**Richard W. Riley,**

*Secretary of Education.*

For the reasons discussed in the preamble, the Secretary proposes to amend part 361 of title 34 of the Code of Federal Regulations as follows:

## PART 361—STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

1. The authority citation for part 361 continues to read as follows:

**Authority:** 29 U.S.C. 709(c), unless otherwise noted.

2. Section § 361.5 is amended by revising paragraphs (b)(15) and (b)(18), and the authority citations following each of those paragraphs, to read as follows:

**§ 361.5 Applicable definitions**

* * * * *

(b) * * *

(15) *Employment outcome* means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(Authority: Sections 7(11), 12(c), 100(a)(2), and 102(b)(3)(A) of the Act; 29 U.S.C. 705(11), 709(c), 720(a)(2), and 722(b)(3)(A))

* * * * *

(18) *Extended employment* means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that an eligible individual performs for the purposes of training or otherwise preparing for competitive employment and for which the individual receives—

(i) Compensation in accordance with the Fair Labor Standards Act; and

(ii) Any support services that the individual needs in order to prepare for competitive employment.

(Authority: Section 12(c) of the Act; 29 U.S.C. 709(c))

* * * * *

3. Section 361.37 is amended by removing the word ''and'' at the end of paragraph (a)(2); removing the period at the end of paragraph (a)(3), and adding, in its place, ''; and''; adding a new paragraph (a)(4); and revising the authority citation following the section to read as follows:

**§ 361.37 Establishment and maintenance of information and referral programs.**

(a) *General provisions.* The State plan must assure that—

* * * * *

(4) The State unit will refer to local extended employment providers an individual with a disability who makes an informed choice to pursue extended employment as the individual's employment goal.

* * * * *

(Authority: Sec. 12(c) and 101(a)(20) of the Act; 29 U.S.C. 709(c) and 721(a)(20))

4. Section 361.47 is amended by revising paragraph (g), adding a new paragraph (k), and revising the authority citation following the section to read as follows:

**§ 361.47 Record of services.**

* * * * *

(g) In the event that an individual's IPE provides for vocational rehabilitation services in a non-integrated setting, including an extended employment setting, a

justification to support the need for the non-integrated setting.

* * * * *

(k) In the event an individual achieves an employment outcome in which the individual is compensated in accordance with section 14(c) of the Fair Labor Standards Act or the designated State unit closes the record of services of an individual in extended employment on the basis that the individual is unable to achieve an employment outcome consistent with § 361.5(b)(15) or that the individual through informed choice chooses to remain in extended employment, documentation of the results of the annual reviews required under § 361.55, the individual's input into those reviews, and the individual's or, if appropriate, the individual's representative's acknowledgement that those reviews were conducted.

(Authority: Sections 101(a)(6), (9), (14), (20) and 102(a), (b), and (d) of the Act; 29 U.S.C. 721(a)(6), (9), (14), (20) and 722(a), (b), and (d))

* * * * *

5. Section 361.55 is revised to read as follows:

**§ 361.55 Annual review of individuals in extended employment and other employment under special certificate provisions of the Fair Labor Standards Act.**

(a) The State plan must assure that the designated State unit conducts an annual review and reevaluation in accordance with the requirements in paragraph (b) of this section for an individual with a disability served under this title—

(1) Who has achieved an employment outcome in which the individual is compensated in accordance with section 14(c) of the Fair Labor Standards Act; or

(2) Whose record of services is closed while the individual is in extended employment on the basis that the individual is unable to achieve an employment outcome consistent with § 361.5(b)(15) or the individual through informed choice chooses to remain in extended employment.

(b) For each individual with a disability who meets the criteria in paragraph (a) of this section, the designated State unit must—

(1) Annually review and reevaluate the status of each individual for 2 years after the individual's record of services is closed (and thereafter if requested by the individual or, if appropriate, the individual's representative) to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

(2) Enable the individual or, if appropriate, the individual's representative to provide input into the review and reevaluation and must document that input in the record of services, consistent with § 361.47(k), with the individual's or, as appropriate, the individual's representative's signed acknowledgment that the review and reevaluation have been conducted; and

(c) Make maximum efforts, including identifying and providing vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individual in engaging in competitive employment as defined in § 361.5(b)(10).

(Authority: Sections 12(c) and 101(a)(14) of the Act; 29 U.S.C. 709(c) and 721(a)(14))

[FR Doc. 00–15991 Filed 6–23–00; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

**Monday,**
**June 26, 2000**

## Part IV

# Department of Education

**National Institute on Disability and Rehabilitation Research; Notice**

## DEPARTMENT OF EDUCATION

### National Institute on Disability and Rehabilitation Research

**AGENCY:** Department of Education.

**ACTION:** Notice of Proposed Competitive Preference Points for Fiscal Years 2001–2002 for Field Initiated competition.

**SUMMARY:** The Assistant Secretary for the Office of Special Education and Rehabilitative Services proposes adding competitive preference points to the Field Initiated Grant competition (84.133G) for the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 2001–2002. This notice contains proposed language for adding competitive preference points.

**DATES:** Comments must be received on or before July 26, 2000.

**ADDRESSES:** All comments concerning the addition of competitive preference points should be addressed to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW, room 3414, Switzer Building, Washington, DC 20202–2645.

Comments may also be sent through the Internet: donna_nangle@ed.gov

**FOR FURTHER INFORMATION CONTACT:** Donna Nangle. Telephone: (202) 205–5880.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–4475. Internet: Donna_Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:**

#### Invitation To Comment

We invite you to submit comments regarding this proposed notice. 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 notice. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in Room 3414, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 9 a.m. and 4:30 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 the proposed language. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

This language supports the National Education Goal that calls for every American to possess the skills necessary to compete in a global economy.

#### Proposed Additional Selection Criterion

The Assistant Secretary will use the selection criteria in 34 CFR 350.54 to evaluate applications under this program. The maximum score for all the criteria is 100 points; however, the Assistant Secretary will also use the following criterion so that up to an additional ten points may be earned by an applicant for a total possible score of 110 points.

Within this Field Initiated competition, we will give the following competitive preference under 34 CFR 75.105(c)(2)(i) to applications that are otherwise eligible for funding under this competition.

Up to ten (10) points based on the extent to which an application includes effective strategies for employing and advancing in employment qualified individuals with disabilities in projects awarded under this competition. In determining the effectiveness of those strategies, we will consider the applicant's prior success, as described in the application, in employing and advancing in employment qualified individuals with disabilities.

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*Applicable Program Regulations:* 34 CFR Part 350.*Applicable Program Regulations:* 34 CFR Part 350.

**Program Authority:** 29 U.S.C. 764.

(Catalog of Federal Domestic Assistance Number: 84.133G, Field Initiated Research)

Dated: June 20, 2000.

**Curtis L. Richards,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 00–15992 Filed 6–23–00; 8:45 am]

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**Monday,**
**June 26, 2000**

**Part V**

# Department of Housing and Urban Development

**24 CFR Part 30**
**Amendments to HUD's Civil Money Penalty Regulations; Proposed Rule**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 30**

**[Docket No. FR–4399–P–01]**

**RIN 2501–AC56**

## Amendments to HUD's Civil Money Penalty Regulations

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement sections 561 and 562 of the Multifamily Assisted Housing Reform and Affordability Act of 1997. These sections concern HUD's ability to impose civil money penalties. Section 561 expands the list of parties and violations subject to civil money penalties related to multifamily properties. Section 562 authorizes HUD to impose civil money penalties for violations of Section 8 project-based housing assistance payments contracts. This proposed rule would implement these sections by revising HUD's civil money penalty regulations.

**DATES:** *Comments Due Date:* August 25, 2000.

**ADDRESSES:** Address all comments concerning this proposed rule to the Rules Docket Clerk, Office of the General Counsel, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410–0500. Comments should refer to the docket number and title listed above. A copy of each comment submitted will be available for public inspection and copying weekdays between 7:30 a.m. and 5:30 p.m. at the above address. Comments submitted by facsimile (FAX) will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Dane M. Narode, Deputy Chief Counsel for Administrative Proceedings, Departmental Enforcement Center, U.S. Department of Housing and Urban Development, 1250 Maryland Avenue, Suite 200, Washington, DC 20024; telephone (202) 708–2350 (this is not a toll-free number). Hearing-or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. The Multifamily Assisted Housing Reform and Affordability Act of 1997

On October 27, 1997, President Clinton signed into law the Multifamily Assisted Housing Reform and Affordability Act of 1997 (Public Law 105–65, title V, 111 Stat. 1384–1424) (the Multifamily Reform Act). One of the stated purposes of the Multifamily Reform Act was ''to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes'' (section 511(b)(9)).

In line with this purpose, the Multifamily Reform Act amended the National Housing Act (12 U.S.C. 1702 *et seq.*) and the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (the 1937 Act) to expand HUD's enforcement authority. Specifically, section 561 amended section 537 of the National Housing Act (captioned ''Civil money penalties against multifamily mortgagors'') (12 U.S.C. 1735f–15), and section 562 added a new section 29 to the 1937 Act (captioned ''Civil Money Penalties Against Section 8 Owners'') (42 U.S.C. 1437z–1).

This proposed rule would revise HUD's regulations at 24 CFR part 30 (captioned ''Civil Money Penalties: Certain Prohibited Conduct'') to implement sections 561 and 562. The regulatory revisions that would be made by this proposed rule are described below.

### II. Section 561 of the Multifamily Reform Act of 1997

Section 561 of the Multifamily Reform Act amended section 537 of the National Housing Act, which authorizes HUD to impose a civil money penalty on a multifamily mortgagor for certain listed violations. Section 561 amended section 537 by expanding the list of parties and violations that may be subject to a civil money penalty, among other changes.

Prior to the passage of the Multifamily Reform Act, section 537 only permitted HUD to impose a civil money penalty on a mortgagor of a multifamily property (defined in section 537 as a property that includes 5 or more units and has a mortgage insured, coinsured, or held under the National Housing Act). Section 561 expanded this list to allow HUD to impose a civil money penalty on a general partner of a partnership mortgagor and an officer or director of a corporate mortgagor. For certain violations, section 561 expanded this list further to allow HUD to impose a civil money penalty on certain agents of mortgagors and certain members of a limited liability company.

Section 561 also expanded the list of violations that are subject to a civil money penalty. These additional violations include the failure to maintain the premises, to provide acceptable management, and to provide access to the accounting records of a property.

Currently, section 537 is implemented in HUD's regulations at 24 CFR 30.45. This proposed rule would amend § 30.45 to incorporate the amendments made by section 561. Section 30.45 also implements section 202a of the Housing Act of 1959 (captioned ''Civil Money Penalties Against Section 202 Mortgagors'') (12 U.S.C. 1701q–1). Though this proposed rule would significantly revise the structure of § 30.45 to accommodate the amendments made by section 561, it would not make any substantive changes to the implementation of section 202a other than as described in sections V. (clarifying the coverage of Section 811 properties) and VI. (adjusting the amount of the civil money penalty) of this preamble. These changes are not related to the amendments made by the Multifamily Reform Act and are included in this rulemaking for convenience only.

### III. Section 562 of the Multifamily Reform Act

Section 562 of the Multifamily Reform Act added a new section 29 to the 1937 Act. New section 29 of the 1937 Act authorizes HUD to impose a civil money penalty on an owner, general partner, and certain agents of an owner of a property receiving project-based Section 8 assistance.

Section 29 authorizes a civil money penalty against these parties for a ''knowing and material breach of a housing assistance payments contract * * *'', which under new section 29 includes the:

(a) Failure to provide decent, safe, and sanitary housing; and

(b) Knowing or wilful submission of false, fictitious, or fraudulent statements or requests for housing assistance.

New section 29 also directs HUD to issue regulations that establish standards and procedures governing the imposition of civil money penalties under the new section. This proposed rule would implement section 29 in a new § 30.68. This new section would be incorporated into HUD's current structure of standards and procedures for civil money penalties in part 30, including the provisions for hearing procedures in part 26, subpart B. HUD's current regulations in part 30 and part 26, subpart B satisfy the requirement of new section 29 to establish standards and procedures governing the imposition of civil money penalties.

**IV. Definitions of ''Ownership Interest in,'' ''Effective Control,'' and ''Entity''**

Both sections 561 and 562 of the Multifamily Reform Act direct HUD to specifically seek public comment on the definitions of the terms ''ownership interest in'' and ''effective control'' as those terms are used in the definition of the terms ''agent employed to manage the property that has an identity of interest'' and ''identity of interest agent''. These terms are defined in §§ 30.45(a) and 30.68(a) of the regulations contained in this proposed rule. In addition, in order to clarify the definition of ''identity of interest agent, the rule defines ''entity,'' a term used in the definition, in §§ 30.45(a) and 30.68(a).

While HUD encourages public comment on all aspects of this proposed rule, HUD is asking members of the public who wish to comment on this proposed rule to pay particular attention to the definition of these terms as they are used in the proposed regulations.

**V. Clarification Regarding Section 811 Properties**

In addition to implementing sections 561 and 562 of the Multifamily Reform Act, this proposed rule would clarify one aspect of the section of HUD's regulations that concern civil money penalties for Section 202 properties. This provision is currently implemented in the same section in HUD's regulations as the civil money penalty provision for multifamily properties (§ 30.45).

The proposed rule would clarify that § 30.45 applies to section 811 and section 202 capital advance projects as well as section 202 direct loan projects. The proposed rule would accomplish this by changing all references to section 202 to include section 811 and by defining the term ''Section 202 or 811 property'' to mean a property with a mortgage held pursuant to either a direct loan or a capital advance under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) or a property with a mortgage held pursuant to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

This clarification is necessary because section 202 of the Housing Act of 1959 was amended in 1990 by the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625, 104 Stat. 4079)(Affordable Housing Act). Prior to the passage of this Act, the Section 202 direct loan program concerned housing for the elderly and persons with disabilities. After the amendment, section 202 continued to concern housing for the elderly, but housing for persons with disabilities was separated from section 202 and moved to section 811 of the Affordable Housing Act.

The civil money penalty provision relating to section 202 properties, implemented by § 30.45, was authorized by section 109 of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235, 103 Stat. 1987) (HUD Reform Act). The HUD Reform Act was passed prior to the revision of the Section 202 program and the creation of the Section 811 program. As a result, prior to the passage of the Affordable Housing Act, section 109 of the HUD Reform Act applied to both housing for the elderly and housing for persons with disabilities.

After the passage of the Affordable Housing Act, it appeared that section 109 would not apply to section 811 properties. We do not believe, however, that Congress intended to remove section 811 properties from the coverage of section 109 when it passed the Affordable Housing Act. Therefore, this proposed rule would clarify that § 30.45 applies to both section 811 properties and section 202 properties.

**VI. Increase in Amount of Penalty**

Under the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890, as amended by Public Law 104–134, title III, Sec. 31001(s)(1), 110 Stat. 1321–373, codified at 28 U.S.C. 2461 note) (the Inflation Adjustment Act), HUD is required to adjust for inflation the maximum amounts of its civil money penalties at least once every four years. This adjustment, as described in section 5 of the Inflation Adjustment Act, requires HUD to increase maximum civil money penalty amounts by the percentage change in the Consumer Price Index for all-urban consumers published by the Department of Labor. The Inflation Adjustment Act requires that any increase in the maximum civil money penalty amount for penalties in the range of $10,000 to $100,000 be rounded to the nearest multiple of $5,000.

Accordingly, this proposed rule would increase the maximum amount of civil money penalties for multifamily and section 202 or 811 properties from $27,500 to $30,000. The maximum amount of civil money penalties for Section 8 properties would not be changed because the current increase is not large enough to cause the amount to be rounded up.

**VII. Small Entities and HUD Enforcement Actions**

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.L. 104–121, 110 Stat. 847, approved March 29, 1996) (SBREFA) provides, among other things, for agencies to establish specific policies or programs to assist small entities. Small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. On May 21, 1998 (63 FR 28214), HUD published a **Federal Register** notice describing HUD's actions on implementation of SBREFA.

Section 223 of SBREFA requires agencies that regulate the activities of small entities to establish a policy or program to reduce or, *under appropriate circumstances,* waive civil penalties when a small entity violates a statute or regulation. Where penalties are determined appropriate, HUD's policy is to consider: (1) The nature of the violation (the violation must not be one that is repeated or multiple, willful, criminal or poses health or safety risks), (2) whether the entity has shown a good faith effort to comply with the regulations; and (3) the resources of the regulated entity.

With respect to the imposition of civil money penalties, HUD is cognizant that section 222 of the SBREFA requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to ''work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel.'' To implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices which are provided to small businesses concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], call 1–888–REG–FAIR (1–888–734–3247).

As HUD stated in its May 21, 1998 **Federal Register** notice, HUD intends to

work with the Small Business Administration to provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD.

**VIII. Findings and Certifications**

*Environmental Impact*

In accordance with 40 CFR 1508.4 of the Council on Environmental Quality regulations and 24 CFR 50.19(c)(1) of the HUD regulations, the policies and procedures contained in this proposed rule are determined not to have the potential of having a significant impact on the human environment and are therefore exempt from further environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

*Federalism Impact*

This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled ''Federalism'').

*Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule. In so doing, the Secretary certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule implements sections 561 and 562 of the Multifamily Reform Act. The rule makes conforming changes to HUD's regulations at 24 CFR part 30 to reflect statutory changes made to the National Housing Act and the United States Housing Act of 1937. These changes were mandated by the Multifamily Reform Act and are not discretionary on the part of HUD.

The purpose of these amendments is to grant HUD additional enforcement tools to use against those who violate agreements and program requirements. The Multifamily Reform Act expanded the list of persons and the types of violations subject to civil money penalties under HUD's insured housing and Section 8 programs. To the extent that these statutory changes impact small entities, it will be as a result of actions taken by the small entities themselves—that is, by violating multifamily and Section 8 program regulations and requirements.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This proposed rule does not, within the meaning of the UMRA, impose any Federal mandates on any State, local, or tribal governments nor on the private sector.

**List of Subjects in 24 CFR Part 30**

Administrative practice and procedure, Loan programs—housing and community development, Mortgages, Penalties.

Accordingly, for the reasons stated in the preamble, HUD proposes to amend 24 CFR part 30 as follows:

## PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

1. The authority citation for 24 CFR part 30 is revised to read as follows:

**Authority:** 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, and 1735f–15; 15 U.S.C. 1717a; 28 U.S.C. 2461 note; 42 U.S.C. 1437z–1 and 3535(d).

2. Add paragraph (f) to § 30.5 to read as follows:

### § 30.5 Effective dates.

* * * * *

(f) Under § 30.68, a civil money penalty may be imposed for violations, or for those parts of continuing violations, occurring on or after [INSERT DATE 30 DAYS AFTER PUBLICATION OF FINAL RULE IN **Federal Register**].

3. Revise § 30.45 to read as follows:

### § 30.45 Multifamily and section 202 or 811 mortgagors.

(a) *Definitions.* The following definitions apply to this section only:

*Agent employed to manage the property that has an identity of interest* and *identity of interest agent.* An entity:

(1) That has management responsibility for a project;

(2) In which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and (3) Over which the ownership entity exerts effective control.

*Effective control.* The ability to direct, alter, supervise, or otherwise influence the actions, policies, decisions, duties, employment, or personnel of the management agent.

*Entity.* An individual corporation; company; association; partnership; authority; firm; society; trust; state, local government or agency thereof; or any other organization or group of people.

*Multifamily property.* Property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to the National Housing Act (12 U.S.C. 1702 *et seq.*).

*Ownership interest.* Any financial, legal, beneficial, or equitable interest in the management agent.

*Section 202 or 811 property.* Property that includes 5 or more living units and that has a mortgage held pursuant to a direct loan or capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) or capital advances under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

(b) *Violation of agreement.* (1) *General.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against a mortgagor of a section 202 or 811 property or a mortgagor, general partner of a partnership mortgagor, or any officer or director of a corporate mortgagor of a multifamily property who:

(i) Has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities; and

(ii) Knowingly and materially fails to comply with any of the commitments listed in paragraph (b)(1)(i) of this section.

(2) *Maximum penalty.* The maximum penalty for each violation under paragraph (b) of this section is the amount of loss that the Secretary would experience at a foreclosure sale, or a sale after foreclosure, of the property involved.

(c) *Other violations.* (1) *Multifamily projects.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against any of the following who knowingly and materially take any of the actions listed in 12 U.S.C. 1735f–15(c)(1)(B):

(i) Any mortgagor of a multifamily property;

(ii) Any general partner of a partnership mortgagor of such property;

(iii) Any officer or director of a corporate mortgagor;

(iv) Any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

(v) Any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

(2) *Section 202 or 811 projects.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against any mortgagor of a section 202 or 811 property who knowingly and materially takes any of the actions listed in 12 U.S.C. 1701q–1(c)(1).

(3) *Maximum penalty.* The maximum penalty for each violation under paragraph (c) of this section is $30,000.

(d) *Payment of penalty.* No payment of a civil money penalty levied under this section shall be payable out of project income.

4. Add § 30.68 to read as follows:

**§ 30.68 Section 8 owners.**

(a) *Definitions.* The following definitions apply to this section only:

*Agent employed to manage the property that has an identity of interest and identity of interest agent.* An entity:

(1) That has management responsibility for a project;

(2) In which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

(3) Over which the ownership entity exerts effective control.

*Effective control.* The ability to direct, alter, supervise, or otherwise influence the actions, policies, decisions, duties, employment, or personnel of the management agent.

*Entity.* An individual corporation; company; association; partnership; authority; firm; society; trust; state, local government or agency thereof; or any other organization or group of people.

*Ownership interest.* Any financial, legal, beneficial, or equitable interest in the management agent.

(b) *General.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, and the Assistant Secretary for Public and Indian Housing, or his or her designee, may initiate a civil money penalty action against any owner, any general partner of a partnership owner, or any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of a property receiving project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for a knowing and material breach of a housing assistance payments contract, including the following:

(1) Failure to provide decent, safe, and sanitary housing pursuant to section 8 of the United States Housing Act of 1937 and 24 CFR 5.703; or

(2) Knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(c) *Maximum penalty.* The maximum penalty for each violation under this section is $25,000.

(d) *Payment of penalty.* No payment of a civil money penalty levied under this section shall be payable out of project income.

(e) *Exceptions.* The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

5. Revise § 30.80(k) introductory text to read as follows:

**§ 30.80 Factors in determining appropriateness and amount of civil money penalty.**

* * * * *

(k) In addition to the above factors, with respect to violations under §§ 30.45, 30.55, 30.60, and 30.68, the Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, or the Assistant Secretary for Public and Indian Housing, or his or her designee, shall also consider:

* * * * *

Dated: May 25, 2000.

**Andrew Cuomo,**

*Secretary.*

[FR Doc. 00–16024 Filed 6–23–00; 8:45 am]

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## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT JUNE 26, 2000

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Meats, prepared meats, and meat products; grading, certification, and standards:

Federal meat grading and certification services; fee changes; published 5-26-00

**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**

Noxious weed lists:

Update; published 5-25-00

**AGRICULTURE DEPARTMENT**

**Rural Utilities Service**

Electric loans:

Standards and specifications for materials and construction—

Underground electric distribution; specifications and drawings; published 5-26-00

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Fishery conservation and management:

Alaska; fisheries of Exclusive Econonmic Zone—

At-sea scales; Community Development Quota (CDQ); published 5-25-00

**DEFENSE DEPARTMENT**

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Ocean transportation by U.S.-flag vessels; published 4-25-00

**ENVIRONMENTAL PROTECTION AGENCY**

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Major sources; requirements for control technology determinations; published 5-25-00

Air pollution control; new motor vehicles and engines:

New nonroad spark-ignition handheld engines at or below 19 kilowatts; Phase 2 emission standards, etc.; published 4-25-00

Air quality implementation plans; approval and promulgation; various States:

California; published 5-26-00

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Reporting and recordkeeping requirements; published 6-26-00

**FEDERAL COMMUNICATIONS COMMISSION**

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Commercial mobile radio service; petitions dismissed or denied; published 4-26-00

Radio stations; table of assignments:

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New Mexico; published 6-1-00

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**GENERAL SERVICES ADMINISTRATION**

Federal Acquisition Regulation (FAR):

Indian organizations and Indian-owned economic enterprises utilization; published 4-25-00

Ocean transportation by U.S.-flag vessels; published 4-25-00

**INTERIOR DEPARTMENT**

**Surface Mining Reclamation and Enforcement Office**

Permanent program and abandoned mine land reclamation plan submissions:

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**JUSTICE DEPARTMENT**

**Prisons Bureau**

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**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

Federal Acquisition Regulation (FAR):

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**PERSONNEL MANAGEMENT OFFICE**

Excepted service, career conditional employment system, and promotion and internal placement:

Senior Executive Service; career and limited appointments; published 5-25-00

**TRANSPORTATION DEPARTMENT**

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Ports and waterways safety:

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**Federal Aviation Administration**

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**Agricultural Marketing Service**

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**National Oceanic and Atmospheric Administration**

Endangered and threatened species:

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**COMMODITY FUTURES TRADING COMMISSION**

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Subordination agreements; net capital treatment; comments due by 7-3-00; published 6-2-00

**DEFENSE DEPARTMENT**

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Nondiscrimination on basis of race, color, national origin, sex, disability, and age; conforming amendments to regulations; comments due by 7-5-00; published 5-5-00

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**Health Care Financing Administration**

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**Fish and Wildlife Service**

Endangered and threatened species:

Southwestern Washington/ Columbia River coastal cutthroat trout in Washington and Oregon; comments due by 7-3-00; published 6-2-00

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Seasons, limits, and shooting hours; establishment, etc.

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**INTERIOR DEPARTMENT**

**Surface Mining Reclamation and Enforcement Office**

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**Federal Contract Compliance Programs Office**

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Railroad Unemployment Insurance Act:

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**Internal Revenue Service**

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

**H.R. 1953/P.L. 106–216**

To authorize leases for terms not to exceed 99 years on land held in trust for the Torres Martinez Desert

Cahuilla Indians and the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria. (June 20, 2000; 114 Stat. 343)

**H.R. 2484/P.L. 106–217**

To provide that land which is owned by the Lower Sioux Indian Community in the State of Minnesota but which is not held in trust by the United States for the Community may be leased or transferred by the Community without further approval by the United States. (June 20, 2000; 114 Stat. 344)

**H.R. 3639/P.L. 106–218**

To designate the Federal building located at 2201 C Street, Northwest, in the District of Columbia, currently headquarters for the Department of State, as the ''Harry S Truman Federal Building''. (June 20, 2000; 114 Stat. 345)

**H.R. 4542/P.L. 106–219**

To designate the Washington Opera in Washington, D.C., as the National Opera. (June 20, 2000; 114 Stat. 346)

**S. 291/P.L. 106–220**

Carlsbad Irrigation Project Acquired Land Transfer Act (June 20, 2000; 114 Stat. 347)

**S. 356/P.L. 106–221**

Wellton-Mohawk Transfer Act (June 20, 2000; 114 Stat. 351)

**S. 777/P.L. 106–222**

Freedom to E-File Act (June 20, 2000; 114 Stat. 353)

**S. 2722/P.L. 106–223**

To authorize the award of the Medal of Honor to Ed W. Freeman, James K. Okubo, and Andrew J. Smith. (June 20, 2000; 114 Stat. 356)

**H.R. 2559/P.L. 106–224**

Agricultural Risk Protection Act of 2000 (June 20, 2000; 114 Stat. 358)

**H.R. 3642/P.L. 106–225**

To authorize the President to award posthumously a gold medal on behalf of the Congress to Charles M. Schulz in recognition of his lasting artistic contributions to the Nation and the world, and for other purposes. (June 20, 2000; 114 Stat. 457)

**Last List June 19, 2000**

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| 700–1199 | (869–042–00005–6) | 31.00 | Jan. 1, 2000 |
| 1200–End, 6 (6 Reserved) | (869–042–00006–4) | 48.00 | Jan. 1, 2000 |
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| 200–699 | (869–038–00110–1) | 30.00 | July 1, 1999 |
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| **31 Parts:** | | | |
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| 200–End | (869–038–00113–6) | 48.00 | July 1, 1999 |
| **32 Parts:** | | | |
| 1–39, Vol. I | | 15.00 | [2] July 1, 1984 |
| 1–39, Vol. II | | 19.00 | [2] July 1, 1984 |
| 1–39, Vol. III | | 18.00 | [2] July 1, 1984 |
| 1–190 | (869–038–00114–4) | 46.00 | July 1, 1999 |
| 191–399 | (869–038–00115–2) | 55.00 | July 1, 1999 |
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| 630–699 | (869–038–00117–9) | 23.00 | July 1, 1999 |
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| 800–End | (869–038–00119–5) | 27.00 | July 1, 1999 |
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| 125–199 | (869–038–00121–7) | 41.00 | July 1, 1999 |
| 200–End | (869–038–00122–5) | 33.00 | July 1, 1999 |
| **34 Parts:** | | | |
| 1–299 | (869–038–00123–3) | 28.00 | July 1, 1999 |
| 300–399 | (869–038–00124–1) | 25.00 | July 1, 1999 |
| 400–End | (869–038–00125–0) | 46.00 | July 1, 1999 |
| **35** | (869–038–00126–8) | 14.00 | [7] July 1, 1999 |
| **36 Parts** | | | |
| 1–199 | (869–038–00127–6) | 21.00 | July 1, 1999 |
| 200–299 | (869–038–00128–4) | 23.00 | July 1, 1999 |
| 300–End | (869–038–00129–2) | 38.00 | July 1, 1999 |
| **37** | (869–038–00130–6) | 29.00 | July 1, 1999 |
| **38 Parts:** | | | |
| 0–17 | (869–038–00131–4) | 37.00 | July 1, 1999 |
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| **39** | (869–038–00133–1) | 24.00 | July 1, 1999 |
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| 52 (52.1019–End) | (869–038–00137–3) | 37.00 | July 1, 1999 |
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| 7 | | 6.00 | [3] July 1, 1984 |
| 8 | | 4.50 | [3] July 1, 1984 |
| 9 | | 13.00 | [3] July 1, 1984 |
| 10–17 | | 9.50 | [3] July 1, 1984 |
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| 18, Vol. II, Parts 6–19 | | 13.00 | [3] July 1, 1984 |
| 18, Vol. III, Parts 20–52 | | 13.00 | [3] July 1, 1984 |
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| **44** | (869–038–00167–5) | 28.00 | Oct. 1, 1999 |
| **45 Parts:** | | | |
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 1999, through January 1, 2000. The CFR volume issued as of January 1, 1999 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.