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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

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1951

RIN 0560–AF78

Farm Loan Programs Account Servicing Policies—Servicing Shared Appreciation Agreements

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This action amends the terms and servicing of Shared Appreciation Agreements. This final rule allows the remaining contributory value of capital improvements made during the term of the Shared Appreciation Agreement to be deducted when calculating the recapture amount under the agreement, reduces the maturity period of such agreements executed after the effective date of this issuance from 10 years to 5 years, and reduces the interest rate on Shared Appreciation loans from the Non-program loan rate to the Farm Loan Program Homestead Protection rate. These changes will give borrowers an opportunity to repay a portion of the Farm Service Agency (FSA) debt that was written off, while ensuring that the Government promptly recaptures some appreciation of the collateral. This rule also will encourage improvement of Agency security during the term covered by the Shared Appreciation Agreement.

DATES: This regulation is effective on August 18, 2000.

FOR FURTHER INFORMATION CONTACT: Michael C. Cumpton, telephone (202) 690–4014; electronic mail: mike_cumpton@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Environmental Evaluation

It is the determination of FSA that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, and 7 CFR part 1940, subpart G, an Environmental Impact Statement is not required.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) except as specifically stated in this rule, no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR parts 11 and 780 must be exhausted before seeking judicial review.

Executive Order 12372

For reasons contained in the notice related to 7 CFR part 3015, subpart V (48 FR 29115) June 24, 1983, the programs within this rule are excluded from the scope of E.O. 12372, which requires intergovernmental consultation with State and local officials.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA requires FSA to prepare a written statement, including a cost/benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

The policies contained in this rule do not have any 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. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Paperwork Reduction Act

The amendments to 7 CFR part 1951 contained in this rule require no revisions to the information collection requirements that were previously approved by OMB (0560–0161) under the provisions of 44 U.S.C. chapter 35. A statement to this effect was published in the proposed rule on November 10, 1999 (64 FR 61221–61223) . No comments on the burden estimate were received.

Federal Assistance Programs

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:
10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Discussion of the Final Rule

In response to the proposed rule published November 10, 1999, 45

respondents from 23 States commented. Comments were received from individuals, farm interest groups, attorneys, university professors, agricultural businesses, and State government officials. Comments and suggestions varied widely but focused primarily on the deduction of certain capital improvements when calculating Shared Appreciation Agreement recapture. The public comments are summarized as follows:

Reduction in Interest Rate on Amortized Shared Appreciation Agreement Recapture

The proposal to reduce the interest rate charged on amortized Shared Appreciation Agreement recapture from the Non-Program rate (10.25% as of March 1, 2000) to the Homestead Protection rate (6.75% as of March 1, 2000) received 17 comments. Of these comments, 10 were favorable toward the change while seven disagreed and suggested modifications or additions to the proposed language.

Two comments were similar in that they wished for the Shared Appreciation Agreement recapture amount to either be added to the program note and, therefore, receive program rates, or, be given the Farm Ownership rate (7.25% as of March 1, 2000). As stated in the proposed rule, the Homestead Protection rate was chosen as it is near the Federal borrowing rate and is already used in the Agency's Homestead Protection program. Therefore, this rate should give producers the greatest possible chance of success while still allowing FSA to collect the recapture funds due and protect its interests.

One respondent approved of the Homestead Protection rate for future amortizations and stated that it should also be used if existing Shared Appreciation notes are to be reamortized. This comment was adopted. If restructure is required, the Homestead Protection rate will also be used when reamortizing Shared Appreciation loans.

The other four respondents suggested that the rate be retroactive to various time periods, ranging from the inception of the Shared Appreciation Agreement program to the announcement of the proposed rule by the Secretary. The Agency has determined that the Homestead Protection rate will apply only to future Shared Appreciation Agreement recapture amortizations because the previous rates are fixed by the existing promissory notes. The payments shown on these notes created a positive cash flow in the farm business plan at the inception of existing Shared Appreciation loans. Therefore, Shared Appreciation loans will not be modified unless for reamortization in cases of delinquency or financial distress under 7 CFR part 1951, subpart S procedures where program loans are also involved. Under 7 CFR § 1951.909, Shared Appreciation loans of eligible borrowers will be reamortized at the lesser of the original note interest rate, or the current Homestead Protection interest rate. The nonprogram loans will not be considered for any other servicing options under that section.

Reduction in Term of Future Shared Appreciation Agreements

The proposal to change the term of future Shared Appreciation Agreements from 10 years to 5 years received 13 comments. Of these comments, six were in favor of the change, two suggested the term remain at 10 years, and four suggested modifications or additions to the proposed language. One felt the term should be 7½ years and another stated the program should be abolished.

Abolishment of the program is not deemed reasonable given the success of the program. Since its inception over 10 years ago, the program has resulted in the recovery of over $58 million in debt written down. Approximately 6,300 Shared Appreciation Agreements remain outstanding, and approximately 5,000 borrowers have held to their terms under their Shared Appreciation Agreements. Shared appreciation is an important part of Agency writedown of borrower debt. After writedown, the Agency continues to provide assistance on the balance of the borrower debt for continued borrower operation of the farm.

Two respondents suggesting alternate language supporting the 5 year term but felt the change should be retroactive to the 1999 announcement of the proposal by the Secretary. Retroactivity of the proposal is discussed above.

Other comments, which were outside the scope of the proposed rule, centered around the requirements for recapture at the end of the term if the land is not sold and recapture of 75% of appreciation in the first 4 years and 50% thereafter. While these comments need not be addressed, the Agency notes that these requirements are dictated by statute (7 U.S.C. § 2001(e)) and cannot be changed by regulation.

One of the two respondents supporting the present 10-year Shared Appreciation Agreement term, stated that the 10-year term allowed the Government the greatest opportunity to recapture a large portion of the debt written off and also benefitted borrowers by giving them the maximum amount of time to recover from the financial hardship. The other proponent of the 10-year term felt the 5-year term could present some problems as many borrowers will be coming off a deferral at that time and could even be, based on the years of eligibility limitations currently in place, ineligible for further loans. The Agency has not adopted the comments to retain the 10-year term for Shared Appreciation Agreements. This term originally was adopted to allow borrowers a lengthy period during which to recover from the circumstances causing their delinquency and need for writedown. However, during this term, land appreciation exceeded expectations in many farming communities while farm income fell due to sustained low commodity and livestock prices. These factors have resulted in shared appreciation recapture amounts beyond the repayment abilities of many borrowers now at or near the end of the term of their agreements. Though these borrowers have successfully serviced their remaining debt after writedown, they now face liquidation because they cannot repay recapture due. The Agency has determined that future Shared Appreciation Agreements will be limited to 5 years to lower the risk of substantial appreciation in land values and increase the ability of borrowers to repay a portion of such appreciation to the Government. This proposed policy change was well supported by public comments. The Agency believes that 5 years is an adequate period of time for most borrowers to recover from the financial difficulties causing their delinquency. Furthermore, this term is adequate to protect the interests of the Government, and, in most cases, will allow more accurate planning by the borrower. The reduced term also will reduce the Agency's administrative burden in monitoring the agreements. Existing Shared Appreciation Agreements will continue under the 10-year term as agreed to by the borrower and the Government.

One respondent supported a 7½-year term for Shared Appreciation Agreements as a compromise. The Agency rejects this unsupported comment in favor of a 5-year term for the reasons discussed above.

Deduction of Capital Improvements From Shared Appreciation Agreement Recapture

The proposal to deduct the value of a dwelling, barn, grain storage bin or silo improved or added during the term of the Shared Appreciation Agreement from the value of the property at the maturity of the agreement received

multiple comments from most of the 44 respondents who commented on the capital improvement provision of the proposed rule. These comments were widely varied among respondents and over 27 different and often divergent suggestions were made on how capital improvements should be addressed in the regulation. Of these comments, 39 offered suggestions on ways to expand the number of capital improvement items, six suggestions were made on eliminating or curtailing deductions, three suggested additional criteria to be considered beyond the improvements themselves, 16 addressed retroactivity of the deduction, and four suggested other changes to the method of determining shared appreciation.

Thirty-one comments were made in support of the use of more generalized language and expanding the number and type of capital improvements which would be deducted from the value of the property at maturity. Of these, 17 suggested all capital improvements be included, 10 made reference to those improvements for farm or real estate improvements (sometimes citing specific examples) and four, while proposing broad expansion of the type of items which would be considered capital improvements, also offered methods of defining or identifying a capital improvement. One individual stated improvements should be ''normal and customary'' while another stated that all ''bonafide'' improvements should be included. Others respondents stated the item should be affixed to the real estate and have a useful life of over 1 year. Three of these respondents stated that a determination or definition of capital improvements could be based on those allowed by the Internal Revenue Service (IRS) when calculating basis or depreciation. It was proposed that this method or the use of actual costs could also be used to determine the value of the improvements to be deducted from the final appraised value. Some respondents felt the appraiser would be able to effectively identify and value a capital improvement while others stated this would be very difficult for the appraiser especially when existing facilities had been expanded. Some of the above individuals and the remaining respondents who wished to expand the list of capital improvements suggested many varied items be considered, including, labor, tiling, tobacco quota, terracing, fencing, orchards, shelter belts, vineyards, irrigation, leveling, underground pipe, rock removal, timber, ponds, hog buildings, dairy parlors, and improvements for wildlife or conservation. It was also suggested that the Agency only consider an item if it met the criteria of an authorized loan purpose but no Government loans funds were used in it's acquisition.

Six comments were made suggesting curtailment of capital items which could be included. Two respondents stated no capital improvements should be considered and it was suggested that, especially in light of the proposed 5-year Shared Appreciation Agreement term, capital improvements should be very rare for operations which were in need of debt forgiveness. Suggestions were also made that all improvements must have received prior approval from the FSA, dwellings should only be excluded when needed and modest, and that improvements to existing facilities not be considered. Consideration of other criteria in the deduction of capital improvements, including financial status, commodity prices, and debt exceeding market value of the security, was proposed by three respondents. Increasing the amount of shared appreciation recapture based on any capital items removed during the shared appreciation term was also proposed in conjunction with deduction of capital improvements added to insure an ''apples-to-apples'' comparison.

These comments on capital improvements revealed a wide diversity of opinion on what capital items, if any, should be deducted in the shared appreciation calculation. Some respondents supported a list of items, while the majority suggested broad categories. Comments indicate that not only is the complete identification of appropriate capital improvements extremely difficult, but the valuation of these items, once identified, is equally complex. Based on this complexity, it has been determined that instead of attempting to redefine a capital improvement, FSA will incorporate, as suggested, IRS documentation methods to identify post-Shared Appreciation Agreement capital improvement additions. The remaining contributory value of any improvements to the FSA real estate security covered by the Shared Appreciation Agreement which were capitalized (not taken as annual operating expenses) on the tax records may be deducted from the final appraisal which establishes the Shared Appreciation Agreement recapture amount. The borrower will be responsible for providing appropriate tax documentation to verify this consideration, and the improvement must be affixed to the Agency's Shared Appreciation Agreement real estate security. The only other contributory value allowed to be deducted from the final appraised value will be the contributory value of the borrower's primary residence to the security if it was built on the security property during the term of the Shared Appreciation Agreement and the contributory value of any improvements made to the residence which actually added living area square footage.

While some commentors questioned appraisers' abilities to identify and value capital improvements, the Agency believes that professionally certified and licensed appraisers are trained in this determination process and are, therefore, qualified to evaluate property values and property value breakdown. This position is consistent with the practices of other commercial and government lending institutions.

Retroactivity of capital improvement deductions was addressed in 22 responses. Sixteen responses suggested that any regulation that excluded capital improvements should be made retroactive to the beginning of the Shared Appreciation Agreement program; two preferred no retroactivity; two suggested retroactivity to the Secretary's 1999 announcement of the proposed rule; one suggested that the new regulation apply retroactively to all who have not paid the recapture due, and one felt retroactivity should extend only to those who have an outstanding suspension agreement or amortized recapture debt.

These responses clearly favor some degree of retroactivity with some respondents indicating a desire for complete retroactivity. This, of course, would require that the Government revisit over 5,000 Shared Appreciation Agreements which have been partially or fully triggered and review the circumstances surrounding the security at that time. This substantial administrative burden is not in the best interests of the Government and the taxpayers. However, the Agency has determined that retroactivity of this deduction should be and will be extended to any amount covered by a suspension agreement that has not yet been fully paid since the borrowers were not able to show repayment ability for this amount. Furthermore, this will involve significantly less of an administrative burden with only approximately 1,500 suspension agreements covered. Use of this deduction, however, may require another appraisal of the property to determine the contributory value of capital improvements if not identified prior to entering the suspension agreement. Section 1951.914(h)(8) has been amended accordingly.

Comments received on other portions of § 1951.914 included the use of amortized Shared Appreciation Agreement recapture in conservation contracts, the use of sale prices instead of appraised values to determine recapture amounts during the term of the Shared Appreciation Agreement, the use of acceleration as a trigger in Shared Appreciation Agreements, and negotiation of appraisals. These comments are beyond the scope of the proposed rule and will not be addressed. Modifications to the regulatory provisions covering these issues were not proposed and are not included in the final rule.

The Agency has clarified the § 1951.914 reference to ''current appraisal'' by referring to § 761.7. The latter section, in part, sets out the requirements for real estate appraisals.

Good cause is shown for making this rule effective upon publication because of the need to implement the Homestead Protection interest rate and the consideration of capital improvements in the calculation of shared appreciation recapture. During the last 18 months, both natural disasters and low commodity prices have adversely affected many producers with maturing Shared Appreciation Agreements as they have become unable to pay recapture amounts due. Many agreements now are coming due and need the benefits provided by this rule. Without the lower Homestead Protection interest rate (6.75% as of March 1, 2000), these borrowers must pay the substantially higher Non-Program interest rate (10.25% as of March 1, 2000) if their shared appreciation debts are amortized under current regulations. The borrowers also will not benefit from the capital improvement deduction unless their shared appreciation debt is suspended with additional interest accrual. Furthermore, payment on many shared appreciation agreements is currently suspended for one year in accordance with 7 CFR 1951.914(h), so implementation of this regulation is needed to resolve the accounts before or when suspension ends. Under this rule, the suspended debts may be reduced to account for capital improvements on the property only during the suspension period. After suspension, the borrower also may qualify for amortization at the lower Homestead Protection interest rate. Therefore, immediate implementation of this rule is necessary to help these borrowers with recapture debts coming due.

The Agency is also amending its regulations in this rule to remove from the Code of Federal Regulations administrative notices, response forms and formulas for calculations required to determine eligibility for its programs that are currently published as exhibits to 7 CFR. 1951, subpart S. Section 331D(c) of the Consolidated Farm and Rural Development Act (Con Act) requires that the notices mandated by that section be published in the Agency's regulations. Sections 331D(a) and (b) of the Con Act require the Agency to send borrowers at least 90 days past due a notice which contains:

> a summary of all primary loan service programs, preservation loan service programs, debt settlement programs, and appeal procedures, including the eligibility criteria and terms and conditions of such programs and procedures.

Accordingly, FSA will retain as exhibits in the Code of Federal Regulations Exhibit A of 7 CFR 1951, subpart S, which is the cover letter to the required notice sent to borrowers who are 90 days past due, and Exhibit A, Attachment 1, the required summary notice. Since § 331D(c) does not mandate that FSA publish all of its notices, FSA is removing from 7 CFR 1951, subpart S, Exhibit A–Attachments 2, 3, 4, 5, 5–A, 6, 6–A, 9, 9–A, 10, 10–A, Exhibit B, Exhibit B–Attachment 1, Exhibit C, Exhibit C–1, Exhibit E, Exhibit E, Attachments 1 and 2, Exhibit F, Exhibit F–Attachments 1 and 2, Exhibit I, Exhibit J, Exhibit J–Attachment 1, Exhibit J–1, Exhibit J–1, Attachment 1, Exhibit K, Exhibit K–Attachment–1, Exhibit L and Exhibit M. FSA will continue to use these Exhibits and Attachments for administrative purposes. They are available from any FSA office.

List of Subjects in 7 CFR Part 1951

Account servicing, Credit, Debt restructuring, Loan programs-Agriculture, Loan Programs—Housing and Community Development.

Accordingly, 7 CFR part 1951 is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

Subpart S—Farm Loan Programs Account Servicing Policy

2. Revise the third sentence in § 1951.909 paragraph (e)(2)(viii)(A) to read as follows:

§ 1951.909 Processing primary loan service programs requests.

* * * * *

(e) * * *

(2) * * *

(viii) * * *

(A) * * * SA loans will be reamortized at the current Homestead Protection program interest rate in effect on the date of approval or the rate on the original amortized note, whichever is less.

3. In § 1951.914 the section heading, paragraphs (b) introductory text, (c)(1), (c)(2), (e)(6), (e)(11) and (h)(8) are revised, paragraphs (e)(10), (e)(11), (h)(9), (h)(10), and (h)(11) are added, and paragraphs (e)(9), (e)(10), (h)(9), and (h)(10) are reserved:

§ 1951.914 Servicing shared appreciation agreements.

* * * * *

(b) *When shared appreciation is due.* For agreements entered into on or after August 18, 2000, the term of the agreement is five years. Shared appreciation is due at the end of either a five or ten year term, as specified in the Shared Appreciation Agreement, or sooner, if one of the following events occur:

* * * * *

(c) * * *

(1) The value of the real estate security at the time of maturity of the Shared Appreciation agreement (current market value) shall be the appraised value of the security at the highest and best use less the increase in the value of the security resulting from capital improvements added during the term of the Shared Appreciation Agreement (contributory value) as set out herein. The current market value of the real estate security property will be determined based on a current appraisal in accordance with 7 CFR § 761.7 and subject to the following:

(i) Upon request, the borrower will identify any capital improvements that have been added to the property since the execution of the Shared Appreciation Agreement.

(ii) The appraisal must specifically identify the contributory value of capital improvements made to the Agency real estate security during the term of the Shared Appreciation Agreement in order to make deductions for that value under this subsection.

(iii) For calculation of Shared Appreciation recapture, the remaining contributory value of capital improvements added during the term of the Shared Appreciation Agreement will be deducted from the current market value of the property. Such capital improvements must also meet at least one of the following criteria:

(A) It is the borrower's primary residence. If the new residence is

affixed to the real estate security as a replacement for a home which existed on the security property when the Shared Appreciation Agreement was originally executed, or, the square footage of the original dwelling was expanded, only the value added to the real property by the new or expanded portion of the original dwelling (if it added value) will be deducted from the current market value.

(B) The item is an improvement to the real estate with a useful life of over 1 year and is affixed to the property. The item must have been capitalized and not taken as an annual operating expense on the borrower's Federal income tax records. The borrower must provide copies of appropriate tax documentation to verify that capital improvements claimed for shared appreciation recapture reduction are capitalized on borrower income taxes.

(2) In the event of a partial sale, an appraisal of the property being sold may be required to determine the market value at the time the Shared Appreciation Agreement was signed if such value cannot be obtained through another method.

* * * * *

(e) * * *

(6) The interest rate will be the Farm Loan Program Homestead Protection rate contained in RD Instruction 440.1 (available in any FSA office).

* * * * *

(11) If the borrower has no outstanding Farm Loan Program loans and becomes delinquent on the Shared Appreciation loan, the Shared Appreciation loan will be serviced in accordance with subpart J of this part. If the borrower has outstanding Farm Loan Programs loans, and becomes delinquent or financially distressed in accordance with § 1951.906, the Shared Appreciation loan will be considered for reamortization in accordance with § 1951.909(e).

* * * * *

(h) * * *

(8) If the real estate that is the subject of the Shared Appreciation Agreement during the suspension period is conveyed, the suspended amount, plus any accrued interest shall be come immediately due and payable by the borrower in accordance with paragraph (c) of this section.

* * * * *

(11) Capital improvement deductions are available to a borrower on any unpaid recapture amount under an existing Suspension Agreement in accordance with 1951.914(c).

* * * * *

4. Exhibit A—Attachments 2, 3, 4, 5, 5–A, 6, 6–A, 9, 9–A, 10, 10–A, Exhibit B, Exhibit B—Attachment 1, Exhibit C, Exhibit C–1, Exhibit E, Exhibit E, Attachments 1 and 2, Exhibit F, Exhibit F—Attachments 1 and 2, Exhibit I, Exhibit J, Exhibit J—Attachment 1, Exhibit J–1, Exhibit J–1, Attachment 1, Exhibit K, Exhibit K—Attachment 1, Exhibit L and Exhibit M of 7 CFR part 1951, subpart S are removed.

Signed in Washington, D.C., on August 8, 2000.

August Schumacher, Jr.,

Under Secretary for Farm and Foreign Agricultural Service.

[FR Doc. 00–20679 Filed 8–17–00; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–12]

Establishment of Class D Airspace; Stuart, FL; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule correction.

SUMMARY: This action corrects an error in the preamble of a final rule that was published in the **Federal Register** on June 30, 2000, (65 FR 40492), Airspace Docket No. 00–ASO–12. The final rule establishes Class D airspace at Stuart, FL.

EFFECTIVE DATE: 0901 utc, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Administration, P.O. Box 20636, Atlanta, GA 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 00–16660, Airspace Docket No. 00–ASO–12, published on June 30, 2000 (65 FR 40492), established Class D airspace at Stuart, FL. In the preamble, the first paragraph under the heading ''The Rule'' inadvertently referred to Key West NAS instead of Stuart, FL. This action corrects the error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the location of the Class D airspace in the preamble under the heading ''The Rule'' published in the **Federal Register** on June 30, 2000 (65 FR 40492), is corrected as follows:

1. On page 40492, column 2, in the preamble under the heading ''The Rule'', in line 4 of the first paragraph, correct the location ''Key West NAS'' to read ''Stuart, FL''.

Issued in College Park, GA, on August 7, 2000.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–20944 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[TD 8895]

RIN 1545–AX31

Extension of Due Date for Electronically Filed Information Returns; Limitation of Failure To Pay Penalty for Individuals During Period of Installment Agreement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations implementing section 6071(b) relating to the extension of the due date for certain electronically filed information returns. The final regulations also provide rules under section 6651(h) relating to a penalty reduction for certain individuals who have agreed with the IRS to make installment payments in satisfaction of their tax liability. The regulations relating to extension of filing dates affect payors required to file information returns after December 31, 1999. The regulations relating to penalty reduction affect individual taxpayers with installment agreements in effect during months beginning after December 31, 1999.

DATES: *Effective Date:* These regulations are effective August 18, 2000.

Applicability Date: The provisions of these regulations under section 6071(b) apply for returns required to be filed after December 31, 1999. The provisions of these regulations under section 6651(h) apply for determining the addition to tax for months beginning after December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Brookens, (202) 622–4920 (for information relating to the

extension of due dates under section 6071(b)); or Robert B. Taylor, (202) 622–4920 (for information relating to the reduction in the penalty under section 6651(h)) (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to the Income Tax Regulations, Employment Tax Regulations, and Procedure and Administration Regulations (26 CFR Parts 1, 31, and 301), and implements sections 6071(b) and 6651(h), which were added to the Internal Revenue Code (Code) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685, 724 (1998 Act)). Section 6071(b) was added to the Code by section 2002 of the 1998 Act and extends the due date for information returns required by chapter 61, subchapter A, part III, subparts B and C (sections 6041 through 6053) that are filed electronically. The information returns affected include the Form W–2 series, Form W–2G, the Form 1098 series, the Form 1099 series, and Form 8027. Under section 6071(b) such information returns are due on or before March 31 of the year following the calendar year to which the returns relate. Section 6071(b) applies to information returns required to be filed with the IRS or the Social Security Administration after December 31, 1999.

Section 6651(h) was added to the Code by section 3303 of the 1998 Act and provides that, for individuals, the failure to pay penalty is reduced from 0.5 percent per month to 0.25 percent per month during the period an installment agreement under section 6159 is in effect with regard to a timely filed return. Section 6651(h) applies to any Federal tax liability of an individual (including a liability under subtitle C) and is effective for determining the addition to tax for months beginning after December 31, 1999.

On January 27, 2000, a notice of proposed rulemaking (REG–105279–99, 2000–8 I.R.B. 707) under sections 6071(b) and 6651(h) was published in the **Federal Register** (65 FR 4396). Although written or electronic comments and requests for a public hearing were solicited, no comments were received and no public hearing was requested or held. The proposed regulations under sections 6071(b) and 6651(h) are adopted by this Treasury decision.

Special Analyses

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

Drafting Information

The principal author of the regulations relating to the extension of due dates under section 6071(b) is Marilyn E. Brookens, Office of Assistant Chief Counsel (Income Tax & Accounting). The principal author of the regulations relating to the reduction in the penalty under section 6651(h) is Robert B. Taylor, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31, and 301 are amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. In § 1.6041–2, paragraph (a)(3)(ii) is revised to read as follows:

§ 1.6041–2 Return of information as to payments to employees.

(a) * * *

(3) * * *

(ii) *Exception.* In a case where an employer is not required to file Forms W–3 and W–2 under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter, returns on Forms W–3 and W–2 required under this paragraph (a) for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

* * * * *

Par. 3. In § 1.6041–6, the first sentence is revised to read as follows:

§ 1.6041–6 Returns made on Forms 1096 and 1099 under section 6041; contents and time and place for filing.

Returns made under section 6041 on Forms 1096 and 1099 for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. * * *

Par. 4. In § 1.6042–2, the first sentence of paragraph (c) is revised to read as follows:

§ 1.6042–2 Returns of information as to dividends paid in calendar years after 1962.

* * * * *

(c) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. * * *

* * * * *

Par. 5. In § 1.6043–2, paragraph (a) is revised to read as follows:

§ 1.6043–2 Return of information respecting distributions in liquidation.

(a) Unless the distribution is one in respect of which information is required to be filed pursuant to § 1.332–6(b), 1.368–3(a), or 1.1081–11, every corporation making any distribution of $600 or more during a calendar year to any shareholder in liquidation of the whole or any part of its capital stock shall file a return of information on Forms 1096 and 1099, giving all the information required by such form and by the regulations in this part. A separate Form 1099 must be prepared for each shareholder to whom such distribution was made, showing the name and address of such shareholder, the number and class of shares owned by him in liquidation of which such distribution was made, and the total amount distributed to him on each class of stock. If the amount distributed to

such shareholder on any class of stock consisted in whole or in part of property other than money, the return on such form shall in addition show the amount of money distributed, if any, and shall list separately each class of property other than money distributed, giving a description of the property in each such class and a statement of its fair market value at the time of the distribution. Such forms, accompanied by transmittal Form 1096 showing the number of Forms 1099 filed therewith, shall be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which such distribution was made with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

* * * * *

Par. 6. In § 1.6044–2, the first sentence of paragraph (d) is revised to read as follows:

§ 1.6044–2 Returns of information as to payments of patronage dividends with respect to patronage occurring in taxable years beginning after 1962.

* * * * *

(d) *Time and place for filing.* The return required under this section on Forms 1096 and 1099 for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year, with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. * * *

* * * * *

Par. 7. Section § 1.6045–1 is amended by adding paragraph (r) to read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

* * * * *

(r) *Electronic filing.* Notwithstanding the time prescribed for filing in paragraph (j) of this section, Forms 1096 and 1099 required under this section for reporting periods ending during a calendar year shall, if filed electronically, be filed after the last calendar day of the reporting period elected by the broker or barter exchange and on or before March 31 of the following calendar year.

Par. 8. In § 1.6045–2, paragraph (g)(3) is revised to read as follows:

§ 1.6045–2 Furnishing statement required with respect to certain substitute payments.

* * * * *

(g) * * *

(3) *Time and place of filing.* The returns required under this paragraph (g) for any calendar year shall be filed after September 30 of such year, but not before the final substitute payment for the year is received by the broker, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

* * * * *

Par. 9. In § 1.6045–4, the first sentence of paragraph (j) is revised to read as follows:

§ 1.6045–4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.

* * * * *

(j) *Time and place for filing.* A reporting person shall file the information returns required by this section with respect to a real estate transaction after December 31 of the calendar year that includes the date of closing (as determined under paragraph (h)(2)(ii) of this section) and on or before February 28 (March 31 if filed electronically) of the following calendar year. * * *

* * * * *

Par. 10. In § 1.6047–1, the first sentence of paragraph (a)(6) is revised to read as follows:

§ 1.6047–1 Information to be furnished with regard to employee retirement plan covering an owner-employee.

(a) * * *

(6) *Time and place for filing.* The return required under this section for any calendar year shall be filed after the close of that year and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. * * *

* * * * *

Par. 11. Section 1.6049–4 is amended by:

1. Revising the first sentence of paragraph (g)(1).

2. Revising the first sentence of paragraph (g)(2).

The revisions read as follows:

§ 1.6049–4 Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

* * * * *

(g) * * * (1) *Annual return.* Except as provided in paragraph (g)(2) of this section, the returns required under this section for any calendar year for the payment of interest shall be filed after September 30 of such year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

(2) Transactional return. In the case of a return under paragraph (e) of this section, relating to returns on a transactional basis, such return shall be filed at any time but in no event later than February 28 (March 31 if filed electronically) of the year following the calendar year in which the interest was paid. * * *

* * * * *

Par. 12. In § 1.6049–7, the first sentence of paragraph (b)(2)(iv) is revised to read as follows:

§ 1.6049–7 Returns of information with respect to REMIC regular interests and collateralized debt obligations.

* * * * *

(b) * * *

(2) * * *

(iv) *Time and place for filing a return with respect to amounts includible as interest.* The returns required under this paragraph (b)(2) for any calendar year must be filed after September 30 of that year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

* * * * *

Par. 13. In § 1.6050A–1, paragraph (b) is revised to read as follows:

§ 1.6050A–1 Reporting requirements of certain fishing boat operators.

* * * * *

(b) *Time and place for filing.* Returns required to be made under this section on Form 1099-MISC shall be filed with the Internal Revenue Service Center, designated in the instructions for Form 1099-MISC, on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the relevant services were performed.

* * * * *

Par. 14. In § 1.6050D–1, paragraph (b) is revised to read as follows:

§ 1.6050D–1 Information returns relating to energy grants and financing.

* * * * *

(b) *Time and place for filing.* Returns required to be made under this section shall be filed with the Internal Revenue Service Center designated in the instructions for Form 6497 or 1099-G on or before the last day of February (March 31 if filed electronically) of the

year following the calendar year for which the return is made.

Par. 15. In § 1.6050E–1, the first sentence of paragraph (h) is revised to read as follows:

§ 1.6050E–1 Reporting of State and local income tax refunds.

* * * * *

(h) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of that calendar year, but not before the refund officer's final payment (or allowance of credit or offset) for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

* * * * *

Par. 16. In § 1.6050H–2, the first and second sentences of paragraph (a)(4) are revised to read as follows:

§ 1.6050H–2 Time, form, and manner of reporting interest received on qualified mortgage.

(a) * * *

(4) *Time and place for filing return.* An interest recipient must file a return required by this paragraph (a) on or before February 28 (March 31 if filed electronically) of the year following the calendar year for which it receives the mortgage interest. If no interest is required to be reported for the calendar year, but a reimbursement of interest on a qualified mortgage is required to be reported for the calendar year, then a return required by this paragraph (a) must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the reimbursement was made. * * *

* * * * *

Par. 17. In § 1.6050J–1T, A–33 is revised to read as follows:

§ 1.6050J–1T Questions and answers concerning information returns relating to foreclosures and abandonments of security (temporary).

* * * * *

A–33: The return or returns must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of an interest in the property occurs or in which the lender knows or has reason to know of the abandonment of the property.

* * * * *

Par. 18. In § 1.6050P–1, paragraph (a)(4)(i) is revised to read as follows:

§ 1.6050P–1 Information reporting for discharges of indebtedness by certain financial entities.

(a) * * *

(4) * * * (i) *In general.* Except as provided in paragraph (a)(4)(ii) of this section, returns required by this section must be filed with the Internal Revenue Service office designated in the instructions for Form 1099-C on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the identifiable event occurs.

* * * * *

Par. 19. In § 1.6052–1, paragraph (b)(1)(ii) is revised to read as follows:

§ 1.6052–1 Information returns regarding payment of wages in the form of group-term life insurance.

* * * * *

(b) * * * (1) * * *

(ii) *Exception.* In a case where an employer is not required to file Forms W–3 and W–2 under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter, returns on Forms W–3 and W–2 required under paragraph (a) of this section for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

* * * * *

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 20. The authority citation for part 31 continues to read in part as follows:

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

Par. 21. In § 31.3402(q)–1, the first sentence of paragraph (f)(1) introductory text is revised to read as follows:

§ 31.3402(q)–1 Extension of withholding to certain gambling winnings.

* * * * *

(f) * * * (1) *In general.* Every person making payment of winnings for which a statement is required under paragraph (e) of this section shall file a return on Form W–2G with the Internal Revenue Service Center serving the district in which is located the principal place of business of the person making the return on or before February 28 (March 31 if filed electronically) of the calendar year following the calendar year in which the payment of winnings is made. * * *

* * * * *

Par. 22. In § 31.6053–3, the first sentence of paragraph (a)(4) is revised to read as follows:

§ 31.6053–3 Reporting by certain large food or beverage establishments with respect to tips.

(a) * * *

(4) *Time and place for filing.* The information return required by this paragraph (a) shall be filed on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which the return is made with the Internal Revenue Service Center specified by the Form 8027 or its instructions. * * *

* * * * *

Par. 23. In § 31.6071(a)–1, paragraph (a)(3)(i) is revised to read as follows:

§ 31.6071(a)–1 Time for filing returns and other documents.

(a) * * *

(3) * * * (i) *General rule.* Each information return in respect of wages as defined in the Federal Insurance Contributions Act or of income tax withheld from wages which is required to be made under § 31.6051–2 shall be filed on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which it is made, except that, if a tax return under § 31.6011(a)–5(a) is filed as a final return for a period ending prior to December 31, the information statement shall be filed on or before the last day of the second calendar month following the period for which the tax return is filed.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 24. The authority citation for part 301 continues to read in part as follows:

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

Par. 25. Section 301.6651–1 is amended by:

1. Revising the last sentence in paragraph (a)(2).

2. Revising the second sentence in paragraph (a)(3).

3. Adding paragraph (a)(4).

The revisions and additions read as follows:

§ 301.6651–1 Failure to file tax return or to pay tax.

(a) * * *

(2) * * * Except as provided in paragraph (a)(4) of this section, the amount to be added to the tax is 0.5 percent of the amount of tax shown on the return if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate.

(3) * * * Except as provided in paragraph (a)(4) of this section, the amount to be added to the tax is 0.5 percent of the amount stated in the notice and demand if the failure is for not more than 1 month, with an

additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. * * *

(4) *Reduction of failure to pay penalty during the period an installment agreement is in effect*—(i) *In general.* In the case of a return filed by an individual on or before the due date for the return (including extensions)—

(A) The amount added to tax for a month or fraction thereof is determined by using 0.25 percent instead of 0.5 percent under paragraph (a)(2) of this section if at any time during the month an installment agreement under section 6159 is in effect for the payment of such tax; and

(B) The amount added to tax for a month or fraction thereof is determined by using 0.25 percent instead of 0.5 percent under paragraph (a)(3) of this section if at any time during the month an installment agreement under section 6159 is in effect for the payment of such tax.

(ii) *Effective date.* This paragraph (a)(4) applies for purposes of determining additions to tax for months beginning after December 31, 1999.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: August 1, 2000.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 00–20851 Filed 8–17–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–085–FOR]

West Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing its approval, with certain exceptions, of an amendment to the West Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The program amendment consists of changes to the West Virginia regulations (38 CSR 2) contained in House Bill 4223, and changes to § 22–3 of the Code of West Virginia contained in Senate Bill 614. The amendment is intended to comply with the Consent Decree that was agreed to by the plaintiffs and the West Virginia Division of Environmental Protection (WVDEP) and approved by the U.S. District Court for the Southern District of West Virginia on February 17, 2000, in the matter of *Bragg* v. *Robertson,* Civil Action No. 2:98–0636 (S.D.W.Va.).

EFFECTIVE DATE: August 18, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158. E-mail: chfo@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia 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 West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the January 21, 1981, **Federal Register** (46 FR 5915–5956). You can find later actions concerning the West Virginia program and previous amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated March 14, 2000 (Administrative Record Number WV-1147) and March 28, 2000 (Administrative Record Number WV–1148), and electronic mail dated April 6, 2000 (Administrative Record Number WV–1149), the WVDEP submitted an amendment to its program. The amendment concerns changes to the West Virginia surface mining reclamation regulations made by the State Legislature in House Bill 4223, and changes made to the Code of West Virginia in Senate Bill 614. Most of the amendment is intended to comply with the Consent Decree that was agreed to by the plaintiffs and the WVDEP and approved by the U.S. District Court for the Southern District of West Virginia on February 17, 2000, in the matter of *Bragg* v. *Robertson,* Civil Action No. 2:98–0636 (S.D.W.Va.).

We announced receipt of the proposed amendment in the April 25, 2000, **Federal Register** (65 FR 24158–24162), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on May 25, 2000. Since no one requested a public hearing, none 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 proposed amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording changes or revised paragraph notations to reflect organizational changes that result from this amendment.

In addition, to expedite our review of the amendment, we have separated from this amendment the proposed rules at new section CSR 38–2–7.5 concerning ''homesteading'' as a postmining land use for permits that meet the requirements for a variance from approximate original contour (AOC). These new rules were submitted to comply with the Consent Decree mentioned above. We will render our findings on new section CSR 38–2–7.5 in a separate notice to be published in the **Federal Register**.

A. Senate Bill 614

Numerous wording and paragraph notation changes have been made.

These are nonsubstantive changes that will not be discussed. The substantive changes are identified below.

1. W.Va. Code 22–3–3. Definitions.

At § 22–3–3(e) the definition of the term ''approximate original contour'' (AOC) is amended. The word, ''disturbed'' has been deleted from the phrase, ''backfilling and grading of the disturbed areas.'' Added in place of the deleted word is the word, ''mined.'' As amended, AOC means: ''that surface configuration achieved by the backfilling and grading of the mined areas so that * * *.'' We find that the amended phrase is identical to the counterpart phrase in the definition of AOC at section 701(2) of SMCRA, and at 30 CFR 701.5 of the Federal regulations. Therefore, we find the revision to be no less stringent than SMCRA and no less effective than the Federal regulations and can be approved.

At § 22–3–3(u) (2), the definition of ''surface mine,'' ''surface-mining'' or ''surface-mining operations'' is amended by deleting the word ''may'' in the sentence immediately before subdivision (i), and replacing that word with the word ''does.'' As amended, the sentence reads: ''Surface-mining does

not include any of the following: * * *.'' We find that the amendment merely clarifies the meaning of the quoted phrase and can be approved. However, as discussed below, our approval does not mean that the three examples of exemptions to the definition are approved parts of the West Virginia program.

In the February 9, 1999, **Federal Register** (64 FR 6201–6218), we addressed a West Virginia program amendment in which the State proposed adding the three exemptions to the definition of ''surface mine,'' ''surface-mining'' or ''surface-mining operations,'' and which are located at section 22–3–3(u)(2)(i), (ii), and (iii). In that notice, we deferred our decision on the section 22–3–3(u)(2)(i) concerning government-financed reclamation contract; disapproved section 22–3–3(u)(2)(ii) concerning coal extraction as an incidental part of development for commercial, residential, industrial, or civic use; and approved section 22–3–3(u)(2)(iii) concerning the reclamation of an abandoned or forfeited mine by a no-cost reclamation contract to the extent that the reclamation activities do not include coal extraction. See the February 9, 1999, notice and the May 5, 2000, **Federal Register** (65 FR 26130–26136) for more information on OSM decisions relating to State amendments on government-financed reclamation contracts, coal extraction as an incidental part of development for commercial, residential, industrial, or civic use, and the reclamation of abandoned or forfeited mines by no-cost reclamation contracts.

At § 22–3–3(y), the definition of ''lands eligible for remining'' is amended in the second sentence by deleting the word ''may'' and adding in its place the word ''do.'' As amended, the sentence reads as follows: ''Surface-mining operations on lands eligible for remining do not affect the eligibility of the lands for reclamation and restoration under article two of this chapter.'' We find that the amendment to § 22–3–3(y) does not render the provision less stringent than SMCRA at section 404 which provides that surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration. Therefore, the amendment can be approved. We note, however, that on February 9, 1999 (64 FR 6201–6218), we approved the definition of ''lands eligible for remining'' at section 22–3–3(y) only to the extent that AML funds may be used to reclaim sites where a bond or deposit has been forfeited only if the bond or deposit is insufficient to provide for adequate reclamation or abatement. That qualified approval still stands.

2. W.Va. Code 22–3–13. General environmental protection performance standards for surface mining; variances.

At § 22–3–13(c)(3), concerning mountaintop removal mining operations, the list of approvable postmining land uses is amended as follows. In the first sentence, the word ''woodland'' is deleted, the words ''commercial forestry'' are added, the words ''or fish and wildlife habitat and recreation lands use'' are deleted, the word ''facility'' and the words ''including recreational uses'' are added. As amended, the sentence reads as follows: ''In cases where an industrial, commercial, agricultural, commercial forestry, residential, public facility including recreational uses is proposed for the postmining use of the affected land * * *.''

In addition, a new subdivision § 22–3–13(c)(3)(B)(iii) is added to require that the applicant provide assurances that the proposed postmining land use will be ''obtainable according to data regarding expected need and market.'' The previously existing subdivision (iii) is renumbered as subdivision (iv), and so on.

SMCRA at section 515(c)(3) provides for the following postmining land uses for mountaintop removal operations: industrial, commercial, agricultural, residential, and public facility (including recreational facilities). On September 1, 1983 (48 FR 39892, 39893), OSM amended its rules concerning postmining land uses and variances. In the preamble, OSM discussed amending the definition of ''land use'' at 30 CFR 701.5. In that discussion, OSM stated that ''Agricultural use is interpreted as including cropland, pastureland or land occasionally cut for hay, grazingland, and forestry.'' We have considered ''forestry'' to be a subset of the ''agricultural'' postmining land use since 1983. Even though the State has listed commercial forestry separately, it is an approvable postmining land use for mountaintop removal operations under the ''agricultural'' postmining land use. Therefore, the deletion of the term ''woodland'' and the addition of the term ''commercial forestry'' do not render subsection (c)(3) less stringent than section 515(c)(3) of SMCRA and can be approved.

On May 14, 1999 (64 FR 26288), we determined that the State's postmining land use of ''fish and wildlife habitat'' rendered the West Virginia program less stringent than SMCRA, because SMCRA at section 515(c)(3) does not authorize ''fish and wildlife habitat'' as a postmining land use for mountaintop removal operations. We disapproved the State's proposed ''fish and wildlife habitat'' postmining use at section 22–3–13(c)(3), and required that the West Virginia program be amended to remove the phrase ''or fish and wildlife habitat and recreation lands.'' We also required that the term ''public use'' at section 22–3–13(c)(3) be amended to include the term ''facility'' and also to clarify that the term will be interpreted the same as ''public facility (including recreation facilities) use'' at SMCRA section 515(c)(3). We codified these required amendments in the Federal regulations at 30 CFR 948.16(iiii)(1) and (2). The State has responded to these required amendments by deleting the words ''or fish and wildlife habitat and recreation lands use'' and by adding the words ''facility including recreational uses.'' As amended, section 22-3–13(c)(3) is substantively identical to the approvable postmining land uses for mountaintop removal operations provided at section 515(c)(3) of SMCRA with one exception. The State term ''public facility including recreational uses'' differs from the SMCRA term ''public facility (including recreational facilities).'' The meaning of the difference is not readily apparent.

In May 14, 1999, **Federal Register** notice discussed above, we explained that SMCRA's use of the term ''facilities'' means that various structures which support the public or recreational use of the land are required to be developed. For example, the postmining land use of ''public facility (including recreational facilities)'' requires a structure or development of some sort created by man that the public is able to use. A ''public facility'' might include developments such as governmental buildings, prisons, schools, reservoirs, or airports. ''Recreational facilities'' might include developed recreational facilities such as parks, camps, and amusement areas, as well as areas developed for uses such as hiking, canoeing, and other less intensive recreational uses. However, even the less intensive recreation facilities would require structures or developments to support the public uses. For example, less intensive recreation facilities such as those for hiking and camping may require access roads, parking lots, rest rooms, developed trails, boat ramps, camping shelters, etc. In the required amendment codified at 30 CFR 948.16(iiii)(2), we require that the State amend the term ''public use'' at section 22–3–13(c)(3) to include the term ''facility'' and also to clarify that the term will be interpreted

the same as ''recreational facilities use'' at SMCRA section 515(c)(3). In this amendment, the State has added the term ''recreational use,'' but has not submitted an explanation as to how the term will be interpreted.

It is not clear whether or not the proposed postmining land use of ''public facility including recreational uses'' is intended to mean the same as ''public facility (including recreational facilities) use'' at section 515(c)(3) of SMCRA. Therefore, we are approving the amendment only to the extent that the term ''public facility including recreational uses'' is interpreted to mean the same as the SMCRA term ''public facility (including recreational facilities) use'' as discussed above. In addition, since the State has satisfied the provisions of the required amendment codified at 30 CFR 948.16(iiii) (1) and (2), except for providing the clarification concerning how the WVDEP will interpret the term ''recreational uses,'' we are deleting most of the required amendment except that we will continue to require, at (iiii), that the State amend the term ''recreational uses'' at W.Va. Code 22–3–13(c)(3) to mean ''recreational facilities use'' at SMCRA section 515(c)(3).

Finally, the added words ''obtainable according to data regarding expected need and market'' at subdivision 22–3–13(c)(3)(B)(iii) are identical to, and therefore no less stringent than, the SMCRA provision at section 515(c)(3)(B)(ii) and can be approved. These changes are in response to a study that we conducted on mountaintop removal mining in West Virginia.

3. W.Va. Code 22–3–23. Release of bond or deposits; application; notice; duties of director; public hearings; final maps on grade release.

At subsection 22–3–23(c), a new subdivision number and title at (c)(1) are added to read as follows. ''(1) For all operations except those with an approved variance from approximate original contour:'' Previously existing subdivisions (c)(1), (2), and (3) have been relettered as (c)(1)(A), (B), and (C). As amended, subdivision 22–3–23(c)(1) applies only to operations that do not have an approved variance from the AOC requirements. This change does not render the West Virginia program less stringent than SMCRA and can be approved.

New subdivision 22–3–23(c)(2) is added to impose specific bond release requirements on operations with an approved variance from the AOC requirements.

New subdivision 22–3–23(c)(2)(A) provides that when the operator completes the backfilling, regrading and drainage control of a bonded area in accordance with the operator's approved reclamation plan, the release of 50 percent of the bond or collateral for the applicable bonded area will be granted: Provided, that a minimum bond of $10,000 shall be retained after grade release.

New subdivision 22–3–23(c)(2)(B) provides that two years after the last augmented seeding, fertilizing, irrigation or other work to ensure compliance subdivision 22–3–13(b)(19) concerning revegetation, the release of an additional 10 percent of the bond or collateral for the applicable bonded area will be granted: Provided, that a minimum bond of $10,000 shall be retained after this phase of bond release.

New subdivision 22–3–23(c)(2)(C) provides that when the operator has completed successfully all surface mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the revegetation responsibility period specified in subdivision 22–3–13(b)(20) will be granted: Provided, that the revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan and if applicable the necessary postmining infrastructure is established and any necessary financing is completed: Provided, however, that the release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.

These provisions apply to mountaintop removal and steep slope mining operations which have been granted exceptions or variances from the AOC requirements. As amended, subdivisions 22–3–23(c)(2)(A), (B), and (C) differ from the State's approved bond release provisions at subdivisions 22–3–23(c)(1)(A), (B), and (C) (and which now apply only to mined lands which were not subject to an AOC variance) in two ways: (1) the percentages of the bond that may be released at the different stages; and (2) the requirement that final bond cannot be released on lands subject to an AOC variance unless, and if applicable, any necessary postmining infrastructure is established and any necessary financing is completed. The proposed percentages of the bond that may be released at the different stages of reclamation do not exceed the percentages provided for in section 519(c) of SMCRA and the Federal regulations at 30 CFR 800.40(c). There is no direct Federal counterpart to the requirement that final bond cannot be released on lands subject to an AOC variance unless, and if applicable, any necessary postmining infrastructure is established and any necessary financing is completed. However, we find that this requirement is not inconsistent with the SMCRA bond release requirements at section 519(c) and the mountaintop removal and steep slope mining requirements at sections 515(c) and 515(e).

The proposed language also contains the following proviso: ''Provided, however, That the release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.'' This provision is less stringent than section 519(c) of SMCRA, and less effective than 30 CFR 800.40(c)(3), which together require that all reclamation requirements of the Act and the permit, including water quality, be fully met. Under the new language, the bond could be released where the quality of the water being discharged from the reclaimed mine site does not meet effluent limitations and applicable State and Federal water quality standards as required by section 519(c) of SMCRA and 30 CFR 816.42 and 817.42. Therefore, the proviso cannot be approved.

Except for the proviso language quoted above, we find that new subdivisions 22–3–23(c)(2)(A), (B), and (C) are consistent with the Federal bond release provisions at SMCRA section 519(c) and 30 CFR 800.40(c) and can be approved. The proviso at subdivision (c)(2)(C) which provides, ''Provided, however, That the release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site,'' is not approved. Therefore, we are requiring that the West Virginia program at W.Va. Code § 22–3–23(c)(2)(C) be further amended to delete the proviso which allows the release of bond where the quality of untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site. We previously disapproved and set aside similar language at section 22–3–23(c)(1)(C). We codified that disapproval at 30 CFR 948.12(e), and the set aside at 30 CFR 948.13(c). We recommend the language at section 22–3–23(c)(1)(C) that is set aside, and therefore not a part of the approved West Virginia program, also be deleted.

B. House Bill 4223

1. CSR 38–2–2.31. Definition of commercial forestry and forestry.

This new definition is added to read as follows.

2.31.a. Commercial Forestry, as used in Subsection 7.4 of this rule, means a long-term postmining land use designed to accomplish the following: (1) Achieve greater forest productivity than that found on the mine site before mining; (2) Minimize erosion and/or sediment yield and serve the hydrologic functions of infiltrating, holding, and yielding water commonly found in undisturbed forests; (3) Result in biodiversity by facilitating rapid recruitment of native species of plants and animals via the process of natural succession; (4) Result in a premium forest that will thrive under stressful conditions; and (5) Result in landscape, vegetation and water resources that create habitat for forest-dwelling wildlife.

2.31.b. Forestry, as used in Subsection 7.4 of this rule, means a long-term postmining land use designed to accomplish the following: (1) Achieve forest productivity equal to that found on the mine site before mining; (2) Minimize erosion and/or sediment yield and serve the hydrologic functions of infiltrating, holding, and yielding water commonly found in undisturbed forests; (3) Result in biodiversity by facilitating rapid recruitment of native species of plants and animals via the process of natural succession; and (4) Result in landscape, vegetation and water resources that create habitat for forest-dwelling wildlife.

The Federal regulations at 30 CFR 701.5 define ''forestry'' within the definition of ''land use'' at paragraph (d) to mean land used or managed for the long-term production of wood, wood-fiber, or wood-derived products. Neither of the State's definitions specifically state that forestry means land used or managed for the production of wood, wood-fiber, or wood-derived products as does the Federal definition at 30 CFR 701.5. However, the State's revised definition of ''Commercial Forestry'' at the land use categories at CSR 38–2–7.2.i. clarifies that commercial forestry is where forest cover is managed for commercial production of timber products. We therefore find that the lack of reference to wood, wood-fiber, and wood-derived products at CSR 38–2–2.31.a. does not render the West Virginia program less effective than the Federal regulations and can be approved. However, the definition of ''forestry'' lacks a reference to wood products. Therefore, to be no less effective than the Federal definition of forestry under the definition of land use at 30 CFR 701.5, we are requiring that the West Virginia program at CSR 38–2–2.31.b. be amended to clearly define forestry to mean a postmining land use used or managed for the long term production of wood or wood products.

2. CSR 38–2–2.45. Definition of downslope.

This definition is amended by deleting the words ''except in operations where the entire upper horizon above the lowest coal seam is proposed to be partly or entirely removed.'' The deleted language was never approved by OSM. (*See* 64 FR 6201, 6205, February 9, 1999.) As amended, ''downslope'' means the land surface between the projected outcrop of the lowest coal seam being mined along each highwall, or any mining-related construction, and the valley floor. We note, however, that as amended, the State definition is identical to the Federal definition of ''downslope'' at 30 CFR 701.5 with the following exception.

In the proposed definition, the words ''or any mining-related construction'' do not appear in the Federal definition. OSM approved the mining-related construction language in the October 4, 1991 **Federal Register** (56 FR 50256, 50257–58). In that finding, OSM stated that the Federal definition is not intended to prohibit the construction of haul roads or pond embankments on steep slopes below the outcrop of the lowest coal seam being mined. Therefore, OSM determined that, to the extent that the term ''mining-related construction'' refers to structures such as those listed above, the State definition is no less effective than the Federal regulations. Similarly, OSM stated that to the extent that the proposed State's language is intended to prohibit the downslope placement of spoil removed by mining-related construction, it is not inconsistent with any Federal requirement. The WVDEP further clarified its definition of downslope by stating (Administrative Record Number WV–857) that the revised definition does not allow indiscriminate placement of materials on the downslope between the bench or cut and any mining-related construction. OSM approved the amended definition to the extent that the clarification provided by the State prohibits the placement of any debris, abandoned or disabled equipment, spoil material, or waste mineral matter between the lowest coal seam being mined and any mining-related construction. In our meeting with the WVDEP on May 3, 2000 (Administrative Record Number WV–1165A), the WVDEP stated that it continues to prohibit indiscriminate placement of materials on the downslope between the bench or cut and any mining-related construction. Therefore, for these reasons we find that as amended, the definition of ''downslope'' does not render the West Virginia program less effective than the Federal definition at 30 CFR 701.5 and can be approved.

3. CSR 38–2–2.98. Definition of prospecting.

This definition is amended by deleting the word ''substantial'' before the word ''disturbance'' in the first sentence. The effect of this deletion is that the definition of ''prospecting'' is no longer limited to those activities that cause ''substantial'' disturbance. On February 9, 1999 (64 FR 6201, 6205), we disapproved a West Virginia amendment concerning the definition of ''prospecting.'' In that amendment, the State added the word ''substantial'' to its definition of ''prospecting.'' The Federal regulations at 30 CFR 701.5 contain a definition of ''coal exploration'' that is synonymous with ''prospecting,'' except the Federal definition lacks the word ''substantial.'' In the disapproval, we noted that the Federal regulations at 30 CFR 772.11 require that a notice of intent to explore for coal be filed for any coal exploration operation, regardless of whether any disturbance at all will occur. In promulgating this revised Federal regulation on December 29, 1988, the Director stated that ''for the regulatory authority to determine which proposed coal exploration operations may substantially disturb the natural land surface, it must be informed of all proposed exploration.'' (53 FR 52943). Therefore, we did not approve the proposed addition of the word ''substantial'' to modify the word ''disturbance'' in the State's definition of ''prospecting.''

We find that the deletion of the word ''substantial,'' from the State's definition of ''prospecting'' fully addresses the reason for our disapproval of February 9, 1999. The State's definition of ''prospecting'' is now no less effective than its Federal counterpart at 30 CFR 701.5, and with the Federal regulations at 30 CFR 772.11. Therefore, the deletion of the word ''substantial'' can be approved.

4. CSR 38–2–2.123. Definition of substantially disturb.

This definition is amended by deleting the word ''and'' after the words ''significantly impact land,'' and adding in its place the word ''or.'' With this change, substantially disturb means to significantly impact land or water resources.

On February 9, 1999 (64 FR 6201, 6206), we approved an amendment to the State's definition of ''substantially disturb'' but, in the interest of clarity, also required the State to amend the phrase ''land and water resources'' to read ''land or water resources.'' In its submittal of that amendment, the WVDEP stated that it interprets the definition of ''substantially disturb'' to mean that if land and/or water resources are significantly impacted by

prospecting that will mean that those resources have been ''substantively (sic) disturbed.'' We approved the amended definition to the extent that it is construed in the manner explained by the WVDEP. However, because future administrations could construe the use of the term ''and'' in its more commonly understood sense, as a conjunctive connector, we required that the West Virginia program be further amended by changing the phrase ''land and water resources'' to ''land or water resources'' in the definition of ''substantially disturb.'' We codified that required amendment in the Federal regulations at 30 CFR 948.16(xxx). In the currently proposed amendment, the State has clarified the definition of ''substantially disturb,'' and thereby has satisfied the required program amendment codified at 30 CFR 948.16(xxx). Therefore, we are approving the amendment to the definition of ''substantially disturb'' and we are removing the required amendment codified at 30 CFR 948.16(xxx).

5. CSR 38–2–2.136. Definition of woodlands.

The definition of woodlands is deleted. As discussed above in Finding A. 2., we are approving the deletion of ''woodlands'' as an acceptable postmining land use for mountaintop removal operations. This postmining land use has no Federal counterpart. Therefore, we likewise find that the deletion of the definition of ''woodlands'' does not render the West Virginia program inconsistent with SMCRA or the Federal regulations and can be approved.

6. CSR 38–2–3.8.c. Structures and support facilities.

This subsection is amended by adding a new concluding sentence which reads as follows: ''This exemption shall not apply to new and existing coal waste facilities.''

The Director approved amendments to CSR 38–2–3.8(c) on July 24, 1996 (61 FR 38382, 38383). In addition to the approval, the Director required at 30 CFR 948.16(vvv)(1) that the West Virginia program be further amended to be consistent with 30 CFR 701.11(e)(2) by clarifying that the exemption at CSR 38–2–3.8(c) does not apply to: 1) the requirements for new and existing coal mine waste disposal facilities; and 2) the requirements to restore the land to approximate original contour.

The proposed amendment is intended to satisfy the required amendment codified at 30 CFR 948.16(vvv)(1)(1) by clarifying that the exemption at CSR 38–2–3.8(c) does not apply to the requirements for new and existing coal mine waste disposal facilities. The proposed amendment, therefore, satisfies the required amendment codified at 30 CFR 948.16(vvv)(1)(1) and can be approved. However, the remaining requirement at 30 CFR 948.16(vvv)(1)(2), which is to clarify that the exemption at CSR 38–2–3.8(c) does not apply to the requirements to restore the land to AOC has not yet been satisfied and will remain in force. We will revise the required amendment codified at 30 CFR 948.16(vvv)(1) to only delete the satisfied portion at 948.16(vvv)(1)(1).

7. CSR 38–2–3.25 Transfer, assignment, or sale of permit rights and obtaining approval.

This subsection is amended by adding the term ''reinstatement'' in the title of the subsection, and in four locations where the phrase ''transfer, assignment, or sale'' appears. In addition, subdivision 3.25.b. is amended by adding a sentence which states that, ''as a condition of reinstatement, the Director may require a modification to the mining and reclamation plan.'' With this amendment, the provisions of CSR 38–2–3.25 will apply to reinstated permits. In its submittal of this amendment, the WVDEP stated that the purpose of this amendment is to provide rules consistent with the W.Va. Code change that was approved by OSM.

On February 9, 1999 (64 FR 6201, 6203), we published a final rule notice in which we addressed an amendment to the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA) at section 22-3–17(b). That section was amended by adding a paragraph which provides that, within one year following the notice of a permit revocation, subject to the discretion of the director and based upon a petition for reinstatement, the revoked permit may be reinstated. Further, the provision provides that the reinstated permit may be assigned to any person who meets the permit eligibility requirements of the WVSCMRA at § 22–3.

We approved the reinstatement provisions because the Federal requirements do not specifically prohibit the reinstatement of a revoked permit. We note, of course, that even though WVSCMRA provides for a reinstatement period of up to one year after permit revocation, the reinstatement procedures must not result in the intentional delay of bond forfeiture reclamation by the WVDEP. We approved the statutory revision in so far as the new language added to section 22–3–17(b) did not contain any provisions that were less stringent than the requirements of SMCRA. However, because the State's proposed reinstatement provisions did not reference the transfer, assignment or sale requirements of section 22–3–19(d) of WVSCMRA or CSR 38–2–3.25, and because the WVDEP had not fully developed its reinstatement procedures, we stated that the proposed provisions could not be implemented until the West Virginia program was further amended. We required at 30 CFR 948.16(www) that the State further amend the West Virginia program to accomplish the following: (1) adopt reinstatement procedures similar to its transfer requirements contained in CSR 38–2–3.25; (2) allow for public participation; (3) require that the revoked permit meet the appropriate permitting requirements of the WVSCMRA; and (4) require that the mining and reclamation plan be modified to address any outstanding violations for any permit reinstated pursuant to § 22–3–17(b) of the WVSCMRA. In the preamble containing our finding, we also stated that in no event can a reinstated permit be approved in advance of the close of the public comment period, and the party seeking reinstatement must post a performance bond that will be in effect before, during, and after the reinstatement of the revoked permit. The proposed regulatory amendment has been submitted to address the required amendment codified at 30 CFR 948.16(www).

The amendments to CSR 38–2–3.25 address the required amendment codified at 30 CFR 948.16(www), as follows. Concerning requirement (1), the State has adopted reinstatement procedures similar to its transfer requirements contained in CSR 38–2–3.25 by adding the term ''reinstatement'' to the title of section CSR 38–2–3.25, and at four locations within the section and thereby, adopting the requirements for transfer, assignment, or sale of permit rights as the reinstatement provisions. This satisfies requirement (1) at 30 CFR 948.16(www).

Concerning requirement (2), ''allow for public participation,'' the State amendment adds the term ''reinstatement'' to subdivision CSR 38–2–3.25.a.3. which provides for public comment on the proposed permit reinstatement. This satisfies requirement (2) at 30 CFR 948.16(www).

Concerning requirement (3), ''require that the revoked permit meet the appropriate permitting requirements of the WVSCMRA,'' the State amendment adds the term ''reinstatement'' to subdivision CSR 38–2–3.25.a.4. This subdivision provides that an approval of an application may be granted upon a written finding that the applicant will

conduct mining operations in accordance with the purpose and intent of the WVSCMRA, CSR 38–2, and the terms and conditions of the permit. Such findings, the provision states, will be based on information set forth in the application for transfer, assignment, or sale and any other information made available to the Director of the WVDEP. This satisfies requirement (3) at 30 CFR 948.16(www). We note that the word ''reinstatement'' was inadvertently omitted from the requirement that such findings will be based on information set forth ''in the application for transfer, assignment, or sale'' and any information made available to the Director of the WVDEP. Therefore, subdivision CSR 38–2–3.25.a.4. must be further amended to add the word ''reinstatement'' to the phrase ''transfer, assignment, or sale'' in the second sentence of subdivision CSR 38–2–3.25.a.4.

Concerning requirement (4), ''require that the mining and reclamation plan be modified to address any outstanding violations for any permit reinstated pursuant to § 22–3–17(b) of the WVSCMRA,'' the State amendment added a sentence to subdivision CSR 38–2–3.25.b. The new sentence provides that, ''as a condition of reinstatement, the Director may require a modification to the mining and reclamation plan.'' With the added sentence, CSR 38–2–3.25.b. provides that: (1) Any person who assumes ownership or control directly or indirectly of a surface mining and reclamation operation shall become responsible for the correction of all outstanding unabated violations; and (2) as a condition of reinstatement, the Director may require a modification to the mining and reclamation plan. These provisions together satisfy the intent of requirement (4), and is consistent with the ''successor in interest'' obligations contained in 30 CFR 774.17(f). We find that the required amendment codified at 30 CFR 948.16(www) is satisfied and can be removed, and that, therefore, the amendment can be approved.

The proposed amendment does not address our February 9, 1999, statement (at 64 FR 6201, page 6203) that, ''in no event can a reinstated permit be approved in advance of the close of the public comment period * * *.'' It may be appropriate that in cases of transfer, assignment or sale of permit rights that the procedures at CSR 38–2–3.25.b. allow for the approval of a transfer, assignment or sale of a permit in advance of the close of the comment period. Under certain limited circumstances, this could accommodate the sale of assets from one party to another.

However, in cases of reinstated permits, there would be no sale of assets from one party to another. Therefore, there should be no provision to allow approval of a reinstated permit prior to the close of the public comment period. The State has indicated its intent not to allow approval of reinstatement of a permit in advance of the close of the public comment period (Administrative Record Number WV–1165). Nevertheless, we are requiring that the West Virginia program at CSR 38–2–3.25.b. be further amended to provide that in no event can a reinstated permit be approved in advance of the close of the public comment period.

8. CSR 38–2–7.2.i. Commercial woodland.

The land use category of ''commercial woodland'' is amended by deleting the word ''woodland,'' and adding in its place the word ''forestry.'' As amended, the land use of ''commercial forestry'' means, ''where forest cover is managed for commercial production of timber.''

The Federal regulations at 30 CFR 701.5 define the term ''forestry'' under the definition of ''land use'' at paragraph (d) to mean ''land used or managed for the long-term production of wood, wood fiber, or wood-derived products.'' As amended, the State's ''commercial forestry'' is similar to the Federal definition of ''forestry'' land use, except that the Federal definition provides slightly more detail. For example, the Federal definition states that ''forestry'' involves the production of wood, wood fiber, or wood-derived products. The State definition, however, merely refers to the production of timber products. The State's definition is still no less effective than the Federal definition because the timber products referred to in the State's definition could be used to produce wood fiber or wood-derived products.

The State definition of ''commercial forestry'' also lacks a requirement found in the Federal definition that the forest cover be managed for the ''long-term'' production of timber. This does not render the State definition less effective than the Federal definition. The State has added new definitions of ''commercial forestry'' and ''forestry'' at CSR 38–2–2.31.a., and .b., and both include the ''long-term'' standard. While these new definitions specifically apply to the new rules at CSR 38–2–7.4 concerning AOC variance operations, it is not unreasonable to conclude that all forestry operations are considered to be long-term. Therefore, we find the definition of ''commercial forestry'' to be no less effective than the Federal regulations at 30 CFR 701.5 and can be approved.

9. CSR 38–2–7.3. Criteria for approving alternative postmining use of land.

New subdivision 7.3.c. is added to provide that: ''A change in postmining land use to grassland uses such as rangeland and/or hayland or pasture is prohibited on operations that obtain an approximate original contour variance described in WV Code § 22–3–13(b)(25)(c). Provided, however, That this subdivision is not effective until Sections 7.4 and 7.5 of this rule are approved by the federal Office of Surface Mining.'' It must be noted that there is a citation error in the quoted language. The mountaintop removal AOC variance provisions are located at section 22–3–13(c), not section 22–3–13(b)(25)(c). In its June 9, 2000, letter, the WVDEP stated that the citation error has been corrected (Administrative Record Number WV–1165). A spokesperson for the Secretary of State also confirmed that the citation error at subdivision 7.3.c. had been corrected in the surface mining reclamation rules that were filed by the WVDEP and which will take effect on August 1, 2000 (Administrative Record Number WV–1171).

There is no direct Federal counterpart to the proposed amendment. Under section 515(c)(3) of SMCRA, industrial, commercial, agricultural, residential or public facility (including recreational facilities) uses may be approved as postmining land uses for mountaintop removal mining operations. Certain managed grassland uses, such as grazing land, hayland or pasture land, are included within the Federal ''agricultural'' land use category. SMCRA at section 515(c)(3)(A) provides that the regulatory authority may grant a permit for mountaintop removal operations where (among other requirements) it deems that the proposed postmining land use constitutes an equal or better economic or public use of the affected land, as compared with the premining use. In this proposed amendment, the State has apparently concluded that such low intensity agricultural uses do not represent an equal or better economic or public use of the affected land. We find that the proposed amendment is not inconsistent with SMCRA at section 515(c)(3), which requires the regulatory authority to make such determinations, and can be approved.

10. CSR 38–2–7.4. Standards applicable to approximate original contour variance operations with a postmining land use of commercial forestry and forestry.

This subsection is new and contains the following subdivisions:

a. 7.4.a. Applicability. Subdivision 7.4.a.1. provides that CSR 38–2–7.4 applies to commercial forestry and forestry as they are defined at CSR 38–2–2.31 (see Finding B. 1., above). The proposed language is as follows.

Commercial Forestry and forestry may be approved as a post mining land use for surface mining operations that receive variances from the general requirement to restore the postmining site to its approximate original contour. An applicant may request AOC variance for purposes of this section for the entire permit area or any segment thereof. Either commercial forestry or forestry shall be established on all portions of the permit area. Provided, that the faces of valley fills shall be reclaimed as described in 7.4.b.1.J of this rule.

SMCRA at section 515(c) provides that the following postmining land uses (PMLU) may be approved for mountaintop removal mining operations, provided other specified criteria are met: industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use. We have recognized forestry as an agricultural PMLU since 1983 (September 1, 1983; 48 FR at 39893). Consequently, commercial forestry may be approved for mountaintop removal mining operations as an agricultural use, provided the specified criteria at section 515(c) are met.

An agricultural PMLU is not an approvable PMLU under SMCRA at section 515(e)(2) for steep slope mining operations seeking a variance from the requirements to restore the land to AOC. Therefore, since we recognize forestry only as an agricultural PMLU, commercial forestry and forestry PMLU cannot be approved for steep slope mining operations seeking a variance from the requirements to restore the land to AOC.

Consequently, CSR 38–2–7.4.a.1., which authorizes commercial forestry and forestry for mining operations that receive variances from the general requirement to restore the postmining site to its AOC is no less stringent than 515(c) of SMCRA to the extent that it applies only to mountaintop removal mining operations.

The WVDEP has stated (Administrative Record Number WV–1165A) that the definitions of ''commercial forestry'' and ''forestry'' will be applied only as follows. ''Commercial forestry,'' both the definition and the implementing regulations at CSR 38–2–7.4, applies only to that portion of the operation which receives a variance from the requirements to achieve AOC. ''Forestry,'' both the definition and the implementing regulations at CSR 38–2–7.4, applies only to that portion of the operation which does not receive an AOC variance and the land surface after mining will achieve AOC.

We clarified in our postmining land use policy document issued on June 23, 2000, that postmining land uses for mountaintop removal mining operations must afford some added benefit either from a public policy or an economic standpoint in compensation for not returning the land to AOC. Under the Federal regulations at 30 CFR 785.14(c)(1)(ii), mountaintop removal operations must comply with the alternative postmining land use requirements of 30 CFR 816.133(a) through (c). Like section 515(b)(2) of SMCRA, paragraphs (a) and (c) of 30 CFR 816.133 specify that the only acceptable alternative postmining land uses are those that are higher or better than the premining uses. This means that the postmining use must represent an added benefit from either a public or economic standpoint. Therefore, for example, rather than a forestry premining use resulting in a forestry postmining use, to create an added benefit, a forestry premining use would have to result in a commercial forestry postmining use or some other higher or better use.

CSR 38–2–7.4.a.1. provides that ''commercial forestry and forestry'' may be approved as a postmining land use for surface mining operations that receive variances from the AOC requirements. As discussed above, however, only commercial forestry would provide an added benefit in compensation for not returning the land to AOC. Most likely, a forestry postmining use in West Virginia would be similar to the premining use and would not provide an added economic or public benefit for not returning the land to AOC. Therefore, forestry does not qualify as a higher or better postmining land use for an AOC variance whereas commercial forestry does qualify for an AOC variance. CSR 38–2–7.4.a.1. does not make it clear that only commercial forestry may be approved for areas receiving a variance from the AOC requirements. We are approving CSR 38–2–7.4.a.1., but only to the extent that it applies to mountaintop removal mining operations that receive an AOC variance pursuant to W.Va. Code. 22–3–13(c). In addition, we are requiring that the West Virginia program be further amended to make it clear that at CSR 38–2–7.4.a.1., only commercial forestry postmining use and not forestry postmining use may be approved for areas receiving a variance from the AOC requirements.

b. 7.4.b. Requirements. This subsection contains requirements concerning planting and management plan development, oversight procedures, landscape criteria, soil and soil substitutes, soil placement and grading, liming and fertilizing, ground cover vegetation, tree species and compositions, standards of success, front faces of valley fills, and long-term monitoring and adaptive management. Subsection 7.4.b. contains the following requirements.

7.4.b.1. This provision provides that the Director of the WVDEP may authorize commercial forestry and forestry as a postmining land use only if the following conditions have been satisfied.

7.4.b.1.A. Planting and management plan development. This subdivision contains the following requirements.

7.4.b.1.A.1. A registered professional forester shall develop a planting plan and long-term management plan for the permitted area that meets the requirements of the West Virginia Surface Coal Mining and Reclamation Act. These plans shall be made a part of the surface mining permit application and shall be the basis for determining the capability of the applicant to meet the requirements of this rule. The plans shall be in sufficient detail to demonstrate that the requirements of the commercial forestry and forestry uses can be met. The plans shall contain a signed statement of intent from the landowner demonstrating its commitment to long-term implementation and management in accordance with the plan. Once final bond release is authorized, the permittee's responsibility for implementing the long-term management plan ceases. Upon final bond release, the jurisdiction of the Director over the permittee, the operator, the landowner or any other responsible party shall cease. The minimum required content of these plans shall be as follows:

7.4.b.1.A.2. The landowner or other responsible party shall submit their objectives for achieving commercial forestry and forestry postmining land uses. The Director may approve the uses only when the planting plan and long term management plan demonstrate that the forest will be managed only for long term forest products, such as sawlogs or veneer, that take 50 to 80 years to mature.

7.4.b.1.A.3. A commercial species planting plan and prescription shall be developed by the registered professional forester to achieve the commercial forestry and forestry use. The plan shall include the following:

7.4.b.1.A.3.(a) A topographic map of the permit area, 1:12000 or finer, showing the mapped location of premining native soil. A description of each soil mapping unit that includes, at minimum, total depth and volume to bedrock, soil horizons, including the O, A, E, B, C, and Cr horizon depths, soil texture, structure, color, reaction and bedrock type and a site index for common native tree species. An approved certified professional

soil scientist shall conduct a detailed on-site survey, create the maps, and provide the written description of the soils. As part of the field survey, the soil scientist shall map and certify the slopes that are 50% or less with a confidence level of ± 2%.

7.4.b.1.A.3.(b) An approved geologist shall create a certified geology map showing the location, depth, and volume of all strata in the mined area, the physical and chemical properties of each stratum to include rock texture, pH, potential acidity and alkalinity, total soluble salts, degree of weathering, extractable levels of phosphorus, potassium, calcium, magnesium, manganese, and iron and other properties required by the director to select best available materials for minesoils.

7.4.b.1.A.3.(c) A description of the present soils and soil substitutes to be used as the plant medium and the proposed handling, and placement of these materials. The handling plan shall include procedures to:

7.4.b.1.A.3.(c)(1) protect native soil organisms and the native seed pool;

7.4.b.1.A.3.(c)(2) include organic debris such as litter, branches, small logs, roots, and stumps in the soil;

7.4.b.1.A.3.(c)(3) inoculate the minesoil with native soil organisms;

7.4.b.1.A.3.(c)(4) increase soil fertility; and

7.4.b.1.A.3.(c)(5) encourage plant succession.

7.4.b.1.A.3.(d) A surface preparation plan which includes a description of the methods for replacing and grading the soil and other soil substitutes and their preparation for seeding and tree planting.

7.4.b.1.A.3.(e) Liming and fertilization plans.

7.4.b.1.A.3.(f) Mulching type, rates and procedures.

7.4.b.1.A.3.(g) Species seeding rates and procedures for application of perennial and annual herbaceous, shrub, and vine plant materials for ground cover.

7.4.b.1.A.3.(h) A tree planting prescription to establish commercial forestry and forestry, to include species, stems per acre, planting mixes, and site-specific planting arrangements to maximize productivity.

7.4.b.1.A.4. A long-term management plan shall be developed by a registered professional forester. The plan shall include:

7.4.b.1.A.4.(a) A topographic map, with a minimum scale of 1:12000 shall be used to show the boundaries and extent of the proposed surface mining operation, the boundaries of areas being planned for commercial forestry and forestry land uses, and the proposed postmining surface configuration, stream drainages and wetlands, and the plant species mix that will be planted in each area.

7.4.b.1.A.4.(b) A proposed schedule of all silvicultural activities necessary to develop the forest resources for commercial forestry and forestry.

7.4.b.1.A.4.(c) A description of activities necessary to protect the forest resources from vandalism, wildfire, insects, diseases, exotic organisms and herbivory detrimental to long-term success.

7.4.b.1.A.4.(d) A plan to assure forest access for future management, protection, and eventual utilization of the forest resources. The plan shall be developed to minimize adverse environmental impacts, including additional road building and other land disturbances. Forestry best management practices shall be followed.

7.4.b.1.A.4.(e) A plan for using forestry best management practices to minimize silvicultural and harvesting impacts on the permit area and on waters of the State. Best Management Practices shall be sufficient to assure compliance with applicable State and Federal water quality standards.

7.4.b.1.A.5. A signed statement from the permittee containing financial information and data sufficient to demonstrate:

7.4.b.1.A.5.(a) That achieving the commercial forestry use is practicable with respect to the private financial capability necessary to achieve the use; and

7.4.b.1.A.5.(b) That the commercial forestry use will be obtainable according to data regarding expected need and market.

7.4.b.1.A.6. Two copies of the planting plan, management plan, pertinent maps and statement of intent shall be submitted to the appropriate Division of Forestry District Forester and two copies of each plan shall be submitted to the Director of the Division of Environmental Protection.

SMCRA at section 515(c)(3)(B), and the Federal regulations at 30 CFR 785.14(c) provide that an applicant for a mountaintop removal mining permit must present specific plans for the proposed postmining land use. SMCRA and the Federal regulations do not, however, contain the same level of specificity as do these regulations with respect to the plans that must be submitted to support a particular authorized postmining land use. The provisions at CSR 38–2–7.4.b.1.A. provide detailed requirements concerning the specific plans that must be submitted for commercial forestry and forestry. The new provisions are not inconsistent with the requirements of SMCRA at section 515(c)(3)(B) and the Federal regulations at 30 CFR 785.14(c), which require that an applicant for a mountaintop removal mining permit present specific plans for the proposed postmining land use. However, in addition to these specific requirements in this subdivision, an applicant must demonstrate compliance with all of the existing State requirements concerning mountaintop removal mining operations at W.Va. Code 22–3–13(c) and CSR 38–2–14.10. Therefore, we find that the provisions at CSR 38–2–7.4.b.1.A. are not less stringent than SMCRA nor less effective than the Federal regulations and can be approved to the extent that they supplement, but do not supersede, the existing mountaintop removal permitting requirements and performance standards at W.Va. Code 22–3–13(c) and CSR 38–2–14.10. In addition, we are approving these requirements to the extent that the use of best management practices at CSR 38–2–7.4.b.1.A.4.(e) will be limited to postmining timber harvesting practices conducted after final bond release and not as a substitute for the sediment control practices required at CSR 38–2–5.4 during mining and reclamation activities. Moreover, the termination of jurisdiction portion of CSR 38–2–7.4.b.1.A.1. is no less effective than the Federal termination of jurisdiction regulation at 30 CFR 700.11(d)(1)(ii), which authorizes the regulatory authority to terminate jurisdiction over a permanent program surface coal mining operation upon final bond release, but only to the extent that the State also applies the reassertion of jurisdiction requirements in its program at CSR 38–2–1.2.d. to these sites.

7.4.b.1.B. Oversight Procedures for Achieving Commercial Forestry and Forestry. This subdivision contains the following requirements.

7.4.b.1.B.1. Before approving a commercial forestry and forestry reclamation plan, the Director shall assure that the planting plan, long-term management plan, and statement of intent are reviewed and approved by a registered professional forester employed either by the West Virginia Division of Forestry or the Director of the Division of Environmental Protection and that a certified professional soil scientist employed by the Director reviews and field verifies the soil slope and sandstone mapping. Before approving the reclamation plan, the Director shall assure that the reviewing forester has made site-specific written findings adequately addressing each of the elements of the plans and statements. The reviewing forester and soil scientist shall make these findings within 45 days of receipt of the plans and maps.

7.4.b.1.B.2. If after reviewing the plans, the reviewing forester and soil scientist find that the plans and statements comply with the requirements of this land use, they shall prepare written findings stating the basis of approval. A copy of the findings shall be sent to the Director and to the surface mining permit supervisor for the region in which the permit is located. The written findings shall be made part of the facts and findings section of the surface mining permit application file. The Director shall assure that the plans and statements comply with the requirements of this rule and other provisions of the approved State surface mining program.

7.4.b.1.B.3. If the reviewing forester finds the plans to be insufficient, the forester shall either:

7.4.b.1.B.3.(a) Contact the preparing forester or the permittee and provide the permittee with an opportunity to make the changes necessary to bring the reclamation plan into compliance with the regulations, or

7.4.b.1.B.3.(b) Notify the Director that the reclamation plan does not meet the requirements of the regulations.

The Director may not approve the surface mining permit until finding that the reclamation plans satisfy all of the requirements of the regulations.

SMCRA and the Federal regulations do not contain specific counterparts to these provisions. The new provisions are, however, not inconsistent with the requirement of SMCRA at section 515(c) and the Federal regulations at 30 CFR 785.14 concerning mountaintop removal mining operations. Furthermore, there is nothing in these provisions that replaces the existing State requirements concerning mountaintop removal mining operations at W.Va. Code 22–3–13(c) or the regulations at CSR 38–2–14.10. Rather, the new requirements at CSR 38–2–7.4.b.1.B.2. provide that the Director of the WVDEP must assure that the plans and statements comply with both the new rule, and with other provisions of the approved State surface mining program. It should be noted that these requirements are in addition to the permit approval requirements of W.Va. Code 22–3–18, which also must be satisfied prior to the issuance of a permit. Because nothing in these proposed rules supersedes or replaces the existing requirements, we find that the new provisions at CSR 38–2–7.4.b.1.B. are not inconsistent with SMCRA or the Federal regulations and can be approved.

7.4.b.1.C. Landscape Criteria. This subdivision contains the following requirements.

7.4.b.1.C.1. For commercial forestry, the Director shall assure that the postmining landscape is rolling, and diverse. The backfill on the mine bench shall be configured to create a postmining topography that includes the principles of landforming (*e.g.* the creation of swales) to reflect the premining irregularities in the land. Postmining landform shall provide a rolling topography with slopes of both 5% and 15% with an average slope of 10% to 12.5%. The elevation change between the ridgeline and the valleys shall be varied. The slope lengths shall not exceed 500 feet. The minimum thickness of backfill, including minesoil, placed on the pavement of the basal seam mined in any particular area shall be ten (10) feet.

7.4.b.1.C.2. For commercial forestry, the surface drainage pattern shall contain watersheds of various sizes, shall exhibit a dendritic drainage pattern that simulates the premining pattern, and shall include the drainage channels, sediment control or other water retention surfaces, which shall remain on the site after bond release.

7.4.b.1.C.3. For commercial forestry, in areas where drainage channel design criteria do not mandate erosion control materials, and in other drainage areas where applicable, bioengineering techniques such as fascines, branch packings, live crib walls, and plantings of native herbs and shrubs appropriate for the site shall be used, to the extent possible, to increase the site biodiversity. Only native stone shall be used for erosion control.

7.4.b.1.C.4. For commercial forestry, at least 3 ponds, permanent impoundments or wetlands totaling at least 3.0 acres shall be created on each 200 acres of permitted area. They shall be dispersed throughout the landscape and each water body shall be no smaller than 0.20 acres. All ponds, permanent impoundments or wetlands shall be subject to the requirements of subsection 5.5 of this rule, and shall be left in place after final bond release. The substrate of the ponds and wetlands must be capable of retaining water to support aquatic and littoral vegetation.

7.4.b.1.C.5. For forestry, all ponds and impoundments created during mining shall be left in place after bond release and shall be subject to the requirements of section 5.5 of the Rules, except for ponds and impoundments located below the valley fills. The substrate of the ponds and wetlands must be capable of retaining water to support aquatic and littoral vegetation.

7.4.b.1.C.6. Before Phase III bond release may be approved, the ponds, permanent impoundments or wetlands used to satisfy parts 7.4.d.1.C.4. and 5. of this rule shall be vegetated on the perimeter with at least six native herbaceous species typical of the region at a density of not less than 1 plant per linear foot of edge, and at least 4 native shrub species at a density of not less than 1 shrub per 6 linear feet of edge. No species of herbaceous or shrub species shall be less than 15% of the total for its life form. This requirement may be met by planted vegetation or that which naturally colonizes the site.

7.4.b.1.C.7. The landscape criteria in parts 7.4.d.1.C.1., 2., 3., 4., 5., and 6. above, do not apply to valley fills.

SMCRA and the Federal regulations do not contain all of the specific counterparts to these provisions. However, except as discussed below, the new provisions at CSR 38–2–7.4.b.1.C are not inconsistent with the requirements of SMCRA at section 515(c) and the Federal regulations at 30 CFR 785.14 concerning mountaintop removal mining operations and can be approved.

CSR 38–2–7.4.b.1.C.5. provides that for forestry, all ponds and impoundments created during mining shall be left in place after bond release and shall be subject to the requirements of section 5.5 of the Rules, ''except for ponds and impoundments located below the valley fills.'' The meaning of the phrase, ''except for ponds and impoundments located below the valley fills'' is unclear. In our meeting with the WVDEP on May 3, 2000, the WVDEP stated that the phrase means that ponds and impoundments located below the valley fills are not required to be left in place after bond release, whereas ponds located elsewhere on the permit area are required to be left in place after bond release.

Nevertheless, the language at CSR 38–2–7.4.b.1.C.5 provides for a broad exemption from the permanent impoundment requirements at CSR 38–2–5.5. Federal regulations at 30 CFR 816.49(b) set forth requirements applicable to all impoundments that will remain after mining, regardless of their location. The West Virginia counterpart to 30 CFR 816.49(b) is CSR 38–2–5.5. Therefore, we find that the language at CSR 38–2–7.4.b.1.C.5 which states, ''except for ponds and impoundments located below the valley fills'' renders the West Virginia program less effective than the Federal regulations at 30 CFR 816.49(b) and cannot be approved. Furthermore, we are requiring the State to either remove the phrase, ''except for ponds and impoundments located below the valley fills,'' from its regulations at CSR 38–2–7.4.b.1.C.5 or revise the language to clarify that ponds and impoundments below the fill that are left in place must meet the requirements of CSR 38–2–5.5.

7.4.b.1.D. Soil and Soil Substitutes. This subdivision contains the following requirements.

7.4.b.1.D.1. Soil is defined as and shall consist of the O, A, E, B, C and Cr horizons.

7.4.b.1.D.2. The Director shall require the operator to recover and use the soil volume equal to the total soil volume on the mined area, as shown on the soil maps and survey except for those areas with a slope of at least 50%. The Director shall assure that all saved soil includes all of the material from the O through Cr horizons.

7.4.b.1.D.3. When the soil volume recovered in 7.4.b.1.D.2. above, is insufficient to meet the depth requirements, selected overburden materials may be used as soil substitutes. In such cases, the Director shall require the operator to recover and use all of the weathered, slightly acid brown sandstone from within ten (10) feet of the soil surface on the mined area. This weathered, slightly acid, brown sandstone material may contain or be supplemented with up to 25% by-volume weathered, slightly acid brown shale or siltstone from within ten (10) feet of the soil surface. Material from this layer may be removed with the soil and mixed with the soil in order to meet the depth requirement. Provided, that once the operator has recovered material sufficient to meet the depth requirements, it may cease recovering such material.

7.4.b.1.D.4. When the materials described in 7.4.b.1.D.2. and 3. of this rule are insufficient to meet the depth requirements, then the Director shall require the operator to recover and use all of the weathered, slightly acid, brown sandstone from below ten feet of the soil surface on the mined area. Provided, that once the operator has recovered material sufficient to meet the depth requirements, it may cease recovering such material.

7.4.b.1.D.5. If the applicant affirmatively demonstrates that the materials described in 7.4.b.1.D.2., 3., and 4. of this rule within the mined area are insufficient to meet the depth requirements, then up to 2/3 of the minesoil may consist of the best available material or mix of materials.

7.4.b.1.D.6. Before approving the use of soil substitutes, the Director shall require the permittee to demonstrate that the selected overburden material is suitable for restoring land capability and productivity. This will be demonstrated by the results of chemical and physical analyses that show that this material is at least 75% sandstone, has at least 15% fines (<2mm), has a net acid-base accounting between −3 and +3 calcium carbonate equivalent per 1000 tons of material excluding siderite effects, a soluble salt level less than 1.0 mmhos/cm, to result in a long-term equilibrium pH of between 5.0 and 6.5 and additional analyses as the Director deems necessary. If this spoil is made up of strongly contrasting materials with respect to acid/base accounting these materials shall be blended.

7.4.b.1.D.7. The minesoils shall be distributed across the disturbed areas, except the faces of valley fills, in a uniform and consistent mix.

7.4.b.1.D.8. For commercial forestry, the final surface material used as the planting and growth medium (hereinafter referred to as commercial forestry minesoil) shall consist of a minimum of four feet, and an average of at least five feet, of soil or a mixture of materials consisting of no less than one-third soil and two-thirds of the materials described in 7.4.b.1.D.3. and 4. of this rule.

7.4.b.1.D.9. For forestry, the final surface material used as the planting and growth medium (forestry minesoil) shall consist of a minimum of 4 feet of soil, or a mixture of soil and suitable soil substitutes described in 7.4.b.1.D.4 through 6 of this rule.

7.4.b.1.D.10. Commercial forestry minesoil shall be placed on that portion of the mined area which receives an AOC variance. For a proposed mine permit area or any specifically defined segment of the proposed permit area that does not satisfy the volumetric criteria for AOC, an AOC variance shall be required. In order to define the portion of the permit classified as AOC-compliant or AOC-variant, the permit may be divided into segments. The number of segments shall not exceed the number of excess spoil disposal areas proposed and each segment shall include at least one associated fill. In no event will there be more variance segments than there are excess spoil disposal areas on the permit area. For each segment, the AOC status shall be defined as complying with AOC if that segment meets the backfill volume, valley fill design, backfill inflection point tests and other criteria as described in the AOC policy adopted by the Director.

7.4.b.1.D.11. Forestry minesoil shall, at a minimum, be placed on all areas achieving AOC.

7.4.b.1.D.12. If the applicant does not demonstrate that there is sufficient material available on the permit area to satisfy the requirements of 7.4.d.1.D., then the Director may not authorize this post mining land use.

7.4.b.1.D.13. The Director shall require the operator to include, as part of the commercial forestry and forestry minesoil mix, organic debris such as forest litter, branches, small logs, roots and stumps in the soil to help re-seed and resprout the native vegetation, inoculate the minesoil with native soil organisms, increase soil fertility, and encourage plant succession.

7.4.b.1.D.14. The Director shall require that soil be removed and re-applied in a manner that minimizes stockpiling to protect seed pools and soil organisms. Only soil removed from the mined area during the one-year period immediately following commencement of soil removal may be placed in a long-term stockpile. Except for soil in a long-term stockpile, soil redistribution shall be done within six months of soil removal. Except for soil in a long-term stockpile, soil shall be stored for less than six months in piles less than six feet high and 24 feet wide in a stable area within the permit area where it will not be disturbed and will be protected from water or wind erosion or contaminants that lessen its capability to support vegetation. Long-term stockpiles shall be seeded with the legumes specified in the ground cover mixes used for reforestation (7.4.d.1.G.1. of this rule).

There are no specific counterparts to the provisions at CSR 38–2–7.4.b.1.D. at SMCRA section 515(c) nor the Federal regulations at 30 CFR 785.14 concerning mountaintop removal mining operations. There is nothing in these provisions that replace the existing State requirements concerning mountaintop removal mining operations at W.Va. Code 22–3–13(c) or the regulations at CSR 38–2–14.10. During our meeting with the WVDEP on May 3, 2000, the WVDEP stated that the existing State requirements concerning mountaintop removal mining operations at W.Va. Code 22–3–13(c) or the regulations at CSR 38–2–14.10. continue to apply.

The Federal regulations at 30 CFR 701.5 define topsoil to mean the A and E soil horizon layers of the four master soil horizons, which include the A, E, B and C horizons. In addition, the Federal regulations at 30 CFR 816.22(a)(1)(i) require that, prior to mining, all topsoil be removed as a separate layer and segregated. As an alternative, 30 CFR 816.22(a)(2) provides that if the topsoil is less than six inches thick, the operator may remove the topsoil and the unconsolidated materials immediately below the topsoil and treat the mixture as topsoil. During our meeting with the WVDEP on May 3, 2000, the WVDEP officials stated that the topsoil in the steep slope areas where mountaintop removal permits are requested is typically three inches thick.

The new State provision incorporates the flexibility afforded by 30 CFR 816.22(a)(ii) because of the thin topsoil in most steep slope areas of West Virginia. The new State provisions at CSR 38–2–7.4.b.1.D.2. require the operator to recover and use the soil volume equal to the total soil volume on the mined area, as shown on the soil maps and survey except for those areas with a slope of at least 50%. All saved soil must include all of the material from the O through Cr horizons. However, the proposed rule at CSR 38–2–7.4.b.1.D.2. does not require an operator to recover and use topsoil from areas with slopes 50 percent (27 degrees) or greater. The Federal regulations at 30 CFR 816.22, like the State rules at CSR 38–2–14.3, require an operator to save and redistribute all topsoil. Therefore, we are not approving the phrase, ''except for those areas with a slope of at least 50%,'' and we are requiring the State to delete this phrase from its regulations at CSR 38–2–7.4.1.D.2. Furthermore, the State must define the O and Cr soil horizons since neither horizon is defined in existing regulations, and we are requiring that the State amend its program to do so.

In addition, new CSR 38–2–7.4.b.1.D.6. provides that, before approving the use of soil substitutes, the Director shall require the permittee to demonstrate that the selected overburden material is suitable for restoring land capability and productivity on the basis of chemical and physical analyses. In order to be no less effective than the Federal regulations at 30 CFR 816.22(b), the proposed State rule must also provide that the substitute material is equally suitable for sustaining vegetation as the existing topsoil and the resulting medium is the best available in the permit area to support vegetation. Therefore, we are requiring that CSR 38–2–7.4.b.1.D.6. be further amended to provide that the substitute material must be equally suitable for sustaining vegetation as the existing topsoil and the resulting medium is the best available in the permit area to support vegetation.

CSR 38–2–7.4b.1.D.10 provides that for each segment of the permit, the AOC status shall be defined as complying with AOC if that segment meets the backfill volume, valley fill design, backfill inflection point tests and other criteria as described in the AOC policy adopted by the Director. The final consent decree that was approved by U.S. District Court Chief Judge Charles Haden on February 17, 2000, which settled the *Bragg* v. *Robertson* case, Civil Action No. 2:98–0636 (S.D. W.Va.), required the parties to develop a plan to meet AOC and to optimize spoil placement for surface mining valley fills. In addition, the consent decree provided that the plan could only be implemented pursuant to an MOU or agreement among the affected Federal and State agencies. On March 6 and 13, 2000, the U.S. Environmental Protection Agency and the U.S. Army Corps of

Engineers, respectively, submitted letters to the WVDEP agreeing to the use of the State's AOC Process Guidance Document dated January 27, 2000 (Administrative Record Nos. WV–1153 and WV–1154). On March 24, 2000, OSM notified WVDEP that it had reviewed the AOC Process Guidance Document and, with certain exceptions, concurred with the implementation of that document (Administrative Record No. WV–1150). The final AOC Process Guidance Document was implemented by WVDEP on June 5, 2000. The proposed rule cited above will ensure compliance with that document. However, it must be noted that, in addition to the requirements set forth in the AOC Process Guidance Document, we are only approving this provision to the extent that the design and construction requirements set forth in CSR 38–2–3.7 and 38–2–14.14 for the disposal of excess spoil must also be satisfied.

CSR 38–2–7.4.b.1.D.13 provides that the Director shall require the operator to use, as part of the soil mix, organic debris such as forest litter, branches, small logs, roots and stumps in the soil to reseed and resprout the native vegetation, inoculate the mine soil, increase soil fertility and encourage plant succession. As mentioned above, soil is defined as the O, A, E, B, C, and Cr horizons. New CSR 38–2–7.4.b.1.E.1. also provides that the Director of the WVDEP must require the permittee to place mine soil loosely and in a non-compacted manner while meeting the static safety factor requirements. Therefore, organic material may only be placed in the soil mix if such placement will enhance the soil, promote vegetative growth and not affect stability.

The Federal regulations at 30 CFR 816.22(d) provide that topsoil and topsoil substitute materials must be redistributed in a manner that achieves an approximately uniform and stable thickness consistent with the approved postmining land use, contours and surface water drainage systems. These rules further provide that the regraded land must be treated if necessary to reduce potential slippage of the redistributed material and to promote root penetration. The Federal regulations also address the presence of organic materials in both backfills and excess spoil fills. For example, the Federal regulations at 30 CFR 816.102 (d) concerning backfilling and grading require the removal of all organic material before placement of spoil on slope areas. Likewise, 30 CFR 816.71(e) concerning the placement of excess spoil provides that all vegetative and organic materials shall be removed from the disposal area prior to placement of the excess spoil. 30 CFR 816.107(d) concerning the backfilling and grading of steep slopes provides that woody materials may not be placed in the backfill of steep slope areas unless the regulatory authority determines that the proposed method for placing woody material within the backfill will not deteriorate the stable condition of the backfilled area. 30 CFR 816.71(e) also provides that organic material may be included in the topsoil to control erosion, promote growth of vegetation, or increase the moisture retention of the soil. Because the proposed and existing State rules will limit the placement of organic material, such as branches, roots, and stumps, in the soil mix for redistribution, while still requiring backfilled and excess spoil areas to comply with the required static safety factors and ensuring that any woody material buried in the backfill in steep slope areas will not deteriorate the stable conditions of the backfill areas, we find that proposed CSR 38–2–7.4.b.1.D.13 is consistent with and no less effective than the Federal soil redistribution and stability requirements at 30 CFR 816.22(d), 816.71(e), 816.102(d), 816.107(d) and can be approved.

Except as discussed above, we find the new provisions at CSR 38–2–7.4.b.1.D to be consistent with the Federal topsoil and subsoil provisions at 30 CFR 816.22. They do not render the West Virginia program less stringent than SMCRA nor less effective than the Federal regulations and can be approved.

7.4.b.1.E. Soil Placement and Grading. This subdivision contains the following requirements.

7.4.b.1.E.1. The Director shall require the permittee to place minesoil loosely and in a non-compacted manner while meeting static safety factor requirements. Minesoil shall be graded only when necessary to maintain stability or on slopes greater than 20% unless otherwise approved by the Director. Grading shall be minimized to reduce compaction. When grading is approved by the Director, only light grading equipment may be used to grade the tops off the piles, roughly leveling the area with no more than one or two passes. Tracking in and rubber-tired equipment shall not be used. Non-permanent roads, equipment yards, and other trafficked areas shall be deep-ripped (24″ to 36″) to mitigate compaction and to allow these areas to be restored to productive commercial forestry. Soil physical quality shall be inadequate if it inhibits water infiltration or prevents root penetration or if their physical properties or water-supplying capacities cause them to restrict root growth of trees common to the area. Slopes greater than 50% shall be compacted no more than is necessary to achieve stability and non-erodability.

7.4.b.1.E.2. The Director shall require the permittee to leave soil surfaces rough with random depressions across the entire surface to catch seed and sediment, conserve soil water, and promote revegetation. Organic debris such as forest litter, logs, and stumps shall be left on and in the soil.

These provisions are consistent with the Federal requirements for soil redistribution at 30 CFR 816.22(d) and the final grading requirements at 30 CFR 816.102(h) and (j) which allow for the construction of small depressions to retain moisture, minimize erosion and assist revegetation and for the preparation of the final graded surfaces in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage. 30 CFR 816.107(d), concerning the backfilling and grading of steep slopes, provides that woody materials may not be placed in the backfill of steep slope areas unless the regulatory authority determines that the proposed method for placing woody material within the backfill will not deteriorate the stable condition of the backfilled area. Also, the Federal requirements at 30 CFR 816.71(e) concerning the placement of excess spoil provide that the regulatory authority may approve the use of organic material on the topsoil as mulch, or in the topsoil to promote growth of vegetation or increase the moisture retention of the soil. The emphasis in the State provisions toward minimizing compaction is consistent with the needs of forestry and tree growth and the Federal soil redistribution requirements at 30 CFR 816.22(d). The provisions do, at CSR 38–2–7.4.b.1.E.1., however, require compliance with the static safety requirements for stability of the replaced soil. Therefore, the Director of the WVDEP can prohibit the placement of woody material in the soil if the stability requirements would not be met. There is nothing in the provisions at CSR 38–2–7.4.b.1.E. that supersedes or negates compliance with the West Virginia program's effluent limitations or water quality standards. Therefore, we are approving the new provisions at CSR 38–2–7.4.b.1.E. to the extent that these provisions do not supersede the State's general backfilling and grading requirements at CSR 38–2–14.15.a. which are no less effective than the Federal requirements at 30 CFR 816.102(a).

7.4.b.1.F. Liming and Fertilizing. This subdivision contains the following requirements.

7.4.b.1.F.1. The Director shall require the permittee to apply lime where the average

soil pH is less than 5.5. Lime rates will be used to achieve a uniform soil pH of 6.0. An alternate maximum or minimum soil pH may be approved, however, based on the optimum pH for the forest revegetation species. Soil pH may vary from 4.5 to a maximum of 7.0 from place to place across the reclaimed area with no more than 10% of the site below pH 5.0 and/or no more than 10% of the site above pH 6.5. Low and high pH levels may be approved only when tree species tolerant of the pH range have been approved for planting.

7.4.b.1.F.2. The Director shall require the permittee to fertilize based on the needs of trees and ground cover vegetation. The permittee shall apply up to 300 pounds/acre of diammonium phosphate (18–46–0) and up to 100 pounds/acre potassium sulfate (0–0–52) with the ground cover seeding. Other fertilizer materials and rates may be used only if the Director finds that the substitutions are appropriate based on soil tests performed by state certified laboratories.

The Federal revegetation regulations at 30 CFR 816.111 do not contain specific liming or fertilization standards. The Federal regulations do require that the permittee establish a diverse, effective, and permanent vegetative cover that is in accordance with the approved permit and reclamation plan.

Subsection 7.4.b.1.F.2. provides for fertilizing rates of up to 300 pounds/acre of diammonium phosphate (18–46–0) and up to 100 pounds/acre potassium sulfate (0–0–52) with the ground cover seeding. Other fertilizer materials and rates may be used only if the Director of the WVDEP finds that the substitutions are appropriate based on soil tests performed by state certified laboratories. The approved State rules at CSR 38–2–9.2.i.1 require a minimum of 600 pounds of 10–20–10 or 10–20–20 per acre, unless alternative rates are approved based on soil analyses performed by qualified laboratories. During our meeting with the WVDEP on May 3, 2000, the WVDEP stated that the new liming and fertilizing requirements at CSR 38–2–7.4.b.1.F. are intended to meet the specific needs for commercial tree growth and will be used in lieu of the fertilizing requirements at CSR 38–2–9.2.i.1 for commercial forestry and forestry postmining land use on operations receiving a mountaintop removal AOC variance. There are no corresponding Federal standards concerning fertilizer requirements. Therefore, the State must use its technical judgement to determine the appropriate rate of fertilizer application. Although the new rate is expected to promote tree growth and discourage competition from herbaceous cover, we recommend that the State require fertilizer types and rates according to soil tests of the mined area. Nevertheless, we find that the proposed provisions at CSR 38–2–7.4.b.1.F. are not inconsistent with the Federal revegetation standards and can be approved.

7.4.b.1.G. Ground Cover Vegetation. This subdivision contains the following requirements.

7.4.b.1.G.1. The Director shall require the permittee to establish a temporary erosion control vegetative cover as contemporaneously as practicable with backfilling and grading until a permanent tree cover can be established.

This cover shall consist of a combination of native and domesticated non-competitive and non-invasive cool and warm season grasses and other herbaceous vine or shrub species including legume species and ericaceous shrubs. All species shall be slow growing, tolerant of low pH, and compatible with tree establishment and growth. The ground cover vegetation shall be capable of stabilizing the soil from excessive erosion, but it should be minimized to control tree-damaging rodent population, and allow the establishment and unrestricted growth of native herbaceous plants and trees. Seeding rates and composition must be in the planting plan. The following ground cover mix and seeding rates (pounds/acre) shall be used: winter wheat (15 lbs/acre, fall seeding), foxtail millet (5 lbs/acre, summer seeding), redtop (2 lbs/acre), perennial ryegrass (2 lbs/acre), orchardgrass (5 lbs/acre), weeping lovegrass (2 lbs/acre) kobe lespedeza (5 lbs/acre), birdsfoot trefoil (10 lbs/acre), and white clover (3 lbs/acre). Kentucky-31 fescue, serecia lespedeza, all vetches, clovers (except ladino and white clover) and other aggressive or invasive species shall not be used. South- and west-facing slopes with a soil pH of 6.0 or greater, the four grasses in the mixture shall be replaced with 20 lbs/acre of warm-season grasses consisting of the following species: Niagara big bluestem (5 lbs/acre), Camper little bluestem (2 lbs/acre), Indian grass (2 lbs/acre), and Shelter switch grass (1 lb/acre), or other varieties of these species approved by the Director. Also, a selection of at least 3 native shrub species native of the area shall be included in the ground cover mix. Provided, that on slopes less than 20%, the Director may approve lesser or no vegetative cover when tree growth and productivity will be enhanced and excessive sedimentation will not result.

7.4.b.1.G.2. All mixes shall be compatible with the plant and animal species of the region and the commercial forestry use. The Director shall require the use of a variety of site-specific ground cover treatments so that different ground cover treatments are used on different parts of the reclamation area to add biodiversity and landscape mosaic to the overall plan.

7.4.b.1.G.3. The permittee may regrade and reseed only those rills and gullies that are unstable.

The Federal regulations at 30 CFR 816.111 require that the permittee establish a diverse, effective, and permanent vegetative cover that is in accordance with the approved permit and reclamation plan. In addition, the Federal regulations at 30 CFR 816.111(c) provide for the establishment of a quick-growing, temporary, stabilizing cover provided that measures to establish permanent vegetation are included in the approved permit and reclamation plan. Furthermore, the Federal requirements at 30 CFR 816.114 provide that mulch and other soil stabilizing practices must be used on all areas that have been regraded and covered by topsoil or topsoil substitutes. The proposed provisions at CSR 38–2–7.4.b.1.G. are not inconsistent with these Federal revegetation standards with the following exceptions.

CSR 38–2–7.4.b.1.G.1. provides that on slopes less than 20%, the Director of the WVDEP may approve lesser or no erosion control vegetative cover when tree growth and productivity will be enhanced and ''excessive'' sedimentation will not result. The exact meaning of the term ''excessive'' sedimentation is not clear.

SMCRA at section 515(b)(10)(B)(i) provides that coal mining operations must be conducted so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable State or Federal law. Therefore, to be no less stringent than SMCRA, the term ''excessive sedimentation'' may not be interpreted to allow additional contributions of suspended solids to streamflow, or runoff outside the permit area in excess of requirements set by applicable State or Federal law. We note that, except for the phrase, ''excessive sedimentation,'' there is nothing in new CSR 38–2–7.4.b.1.G.1. that supersedes or negates the approved State provisions at CSR 38–2–14.5.b. concerning effluent limitations. It appears that the effluent limitations at CSR 38–2–14.5.b. would continue to apply. However, under the proposed State rule, sedimentation, as long as it was not excessive, would be allowed in streams. Subsection 14.5.b., like 30 CFR 816.42, provides that discharge from areas disturbed by surface mining shall not violate effluent limitations or cause a violation of applicable water quality standards.

By limiting the amount of temporary vegetative cover on slopes less than 20 percent, it is anticipated that tree growth and productivity will be enhanced. While temporary vegetation does to some extent compete with tree species during the early growing seasons, such vegetative cover is essential to ensure stability and prevent

erosion. Even prior to the establishment of the temporary vegetative cover, 30 CFR 816.114 requires that mulch and other soil stabilizing practices be used to protect the topsoil and topsoil substitutes. CSR 38–2–9.2.i.2 contains the State's mulch specifications. In addition, the Federal regulations at 30 CFR 816.95(a) require that all exposed surface areas be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

As proposed, CSR 38–2–7.4.b.1.G.1. is less effective than the Federal requirements at 30 CFR 816.42, 816.95(a), 816.111, and 816.114 because the proposed standard to authorize lesser or no vegetative cover is modified by the undefined phrase, ''excessive sedimentation.'' To be no less effective than the Federal requirements, the Director can only be allowed to approve lesser or no vegetative cover on slopes less than 20 percent when mulch or other soil stabilizing practices have been used to protect all disturbed areas and it has been demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion. Therefore, we are not approving the word ''excessive'' in the phrase ''excessive sedimentation'' at CSR 38–2–7.4.b.1.G.1. Furthermore, we are requiring the deletion of the word ''excessive'' from the proposed State rule at CSR 38–2-7.4.b.1.G.1 to ensure compliance with State water quality requirements at CSR 38–2–14.5.b. In addition, we are requiring that the West Virginia program be further amended to provide that lesser or no vegetative cover may only be authorized by the Director when mulch or other soil stabilizing practices have been used to protect all disturbed areas and it has been demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion regardless of slope.

CSR 38–2–7.4.b.1.G.3. only authorizes the regrading and reseeding of rills and gullies that are unstable. Normally, the presence of unstable rills and gullies indicates that excessive erosion has occurred. The Federal regulations at 30 CFR 816.95(b) require the regrading of all rills and gullies that disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of water quality standards for the receiving stream. Therefore, we are approving CSR 38–2–7.4.b.1.G.3. only to the extent that it is interpreted to require the repair of all rills and gullies that disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of water quality standards for the receiving stream. In addition, we are requiring that CSR 38–2–7.4.b.1.G.3. be further amended to require the repair of all rills and gullies that disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of water quality standards for the receiving stream.

7.4.b.1.H. Tree Species and Compositions. This subdivision contains the following requirements.

7.4.b.1.H.1. Commercial tree and nurse tree species selection shall be based on site-specific characteristics and long-term goals outlined in the forest management plan and approved by a registered professional forester. For commercial forestry, the Director shall assure that all areas suitable for hardwoods are planted with native hardwoods at a rate of 500 seedlings per acre in continuous mixtures across the permitted area with at least six (6) species from the following list: white and red oaks, other native oaks, white ash, yellow-poplar, black walnut, sugar maple, black cherry, or native hickories. For forestry, the Director shall assure that all areas suitable for hardwoods are planted with native hardwoods at a rate of 450 seedlings per acre in continuous mixtures across the permitted area with at least three (3) or four (4) species from the following list: white and red oaks, other native oaks, white ash, yellow-poplar, black walnut, sugar maple, black cherry, or native hickories.

7.4.b.1.H.2. For commercial forestry, each of the species shall be not less than 10% of the total planted composition and at least 75% of the total planted woody plant composition shall be from the list of species in part 7.4.d.1.G.1. Species shall be selected based on their compatibility and expected site-specific long-term dynamics. For forestry, if only three species from the above list are planted, then each of the species shall be not less than 20% of the total planted composition. If four species from the list in part 7.4.d.1.G.1. are planted, then each of the species shall be not less than 15% of the total planted composition. Species shall be selected based on their compatibility and expected site-specific long-term dynamics.

7.4.b.1.H.3. Between 5% and 10% of the required number of woody plants shall be a planted in a continuous mix of three or more nurse tree and shrub species that improve soil quality and habitat for wildlife. They shall consist of black alder, black locust, bristley locust, redbud, or bi-color lespedeza or other non-invasive, native nurse tree or shrub species, approved by the Director. One to five acres within each 100 acres of the permit area shall be left unplanted with trees, but left with ponds, wetlands or ground cover vegetation only. These areas may be continuous or divided into 2–4 separate parcels, each at least 0.25 acres large.

7.4.b.1.H.4. On areas unsuitable for hardwoods, the Director may authorize the following conifers: Virginia pine, red pine, white pine, pitch pine, or pitch x loblolly hybrid pine. Areas unsuitable for hardwoods shall be limited to southwest-facing slopes greater than 10% or areas where the soil pH is less than 5.5. These conifers shall be planted as single-species stands less than 10 acres in size at the same rate as the hardwood requirements in 7.4.b.1.H.1 of this rule. The Director shall assure that no reclaimed area of the permit area contains a total of more than 15% conifers.

7.4.b.1.H.5. The Director shall assure that the specific species and selection of trees and shrubs shall be based on the suitability of the planting site for each species' site requirements based on soil type, degree of compaction, ground cover, competition, topographic position, and aspect.

7.4.b.1.H.6. For commercial forestry only, in addition to the trees and shrubs required in the sections above, 2–0 white pine seedlings shall be planted across all sites at a rate of 5 to 10 trees per acre. These trees will be used for the productivity check required for Phase III bond release.

SMCRA at section 515(b)(19) provides for the revegetation of the affected lands with a diverse, effective, and permanent vegetative cover. The Federal regulations at 30 CFR 816.116(b)(3) provide the standards for success of revegetation for areas to be developed for forest products. Subsection 816.116(b)(3)(i) provides that the regulatory authority shall establish minimum stocking and planting arrangements based on local and regional conditions. The proposed tree species and compositions at subsection CSR 38–2–7.4.b.1.H. are consistent with SMCRA at section 515(b)(19) and with the Federal regulations at section 816.116(c)(3)(i).

New CSR 38–2–7.4.b.1.H.1 provides that ''commercial forestry'' requires a planting rate of 500 seedlings per acre and ''forestry'' requires 450 seedlings per acre. The existing rules at CSR 38–2–9.3.g provide that ''forestland'' requires 450 trees, including volunteer tree species, and/or shrubs and CSR 38–2–9.3.h.1 requires a stocking rate of 450 trees per acre for commercial reforestation operations. During our meeting with the WVDEP on May 3, 2000, the WVDEP stated that new CSR 38–2–7.4.b.1.H.1 provides the standards for commercial forestry and forestry for postmining land use for surface mining operations that receive variances from the requirement to restore AOC. Therefore, upon approval of CSR 38–2–7.4.b.1.H.1, the stocking rates at CSR 38–2–9.3.g and .h will only apply to surface mining operations with postmining land uses of forestland/wildlife or commercial reforestation that do not receive variances from AOC.

We note that there is a citation error at new CSR 38–2–7.4.b.1.H.2. CSR 38–2–7.4.b.1.H.2. cites CSR 38–2–7.4.d.1.G.1. as the source of a list of woody plant species. The list of woody

plant species is actually located at CSR 38–2–7.4.b.1.H.1.

Based on the findings above, and except as noted below, we find that the provisions of new CSR 38–2–7.4.b.1.H. are consistent with SMCRA at section 515(b)(19) and with the Federal regulations at section 816.116(c)(3)(i) and can be approved. The citation error noted at CSR 38–2–7.4.b.1.H.2. is a typographical error that must be corrected. Therefore, we are requiring that the West Virginia program at CSR 38–2–7.4.b.1.H.2. be amended to correct the citation error by deleting ''7.4.d.1.G.1.'' in two places and replacing the deleted citation with ''7.4.b.1.H.1.''

7.4.b.1.I. Standards of Success. This subdivision contains the following requirements.

7.4.b.1.I.1. The Director shall assure the ability of the commercial forestry and forestry areas to produce a high-quality commercial forest by confirming, after on-site soil testing, that the minesoil selection, placement, and preparation criteria in 7.4.d.1.D.7 through 11 of this rule are met before Phase I bond release may occur. Before approving Phase I bond release, a certified soil scientist shall certify, and the Director shall make a written finding that the minesoil meets these criteria.

7.4.b.1.I.2. The Director shall not authorize Phase II bond release for commercial forestry before the end of the fifth tree growing season. The Director may approve Phase II bond release only if the tree survival is equal to or greater than 300 commercial trees per acre (80% of which must be commercial hardwood species listed in 7.4.b.1.H.1 of this rule) or the rate specified in the forest management plan, whichever is greater. For forestry, Phase II bond release may be granted by the Director at the end of the second growing season only if the tree survival is equal to or greater than 300 trees per acre, 60% of which must be commercial hardwood species listed in part 7.4.d.1.G.1. of this rule, or the rate specified in the forest management plan, whichever is greater. Furthermore, for both commercial forestry and forestry, where there is potential for excessive erosion on slopes greater than 20%, there shall be 70% ground cover where ground cover includes tree canopy, shrub and herbaceous cover, organic litter, and rock cover, and at least 80% of all trees and shrubs used to determine re-vegetation success must have been in place for at least 60% of the applicable minimum period of responsibility. Trees and shrubs counted in determining such success shall be healthy and shall have been in place for not less than two growing seasons with no evidence of die back.

7.4.b.1.I.3. The Director may approve Phase III bond release for commercial forestry and forestry only if all criteria for Phase II bond release in 7.4.b.1.I.2 of this rule are still being met at the time Phase III bond release is considered. For forestry, Phase III bond release may not be authorized until at least five growing seasons have passed since the trees were planted. Additionally, for commercial forestry, phase III bond release may not be authorized unless commercial forest productivity has been achieved by the end of the twelfth growing season or, if such productivity has not been achieved, if a commercial forestry mitigation plan is submitted to the Director, approved and completed. Commercial forest productivity is achieved only when annual height increments of the white pine indicator species, based on the average of four or more consecutive annual height increments, is equal to or greater than 1.5 feet. The Director shall measure the average four-year growth increment of all trees along two perpendicular transects across the site that will achieve a tree sample size of no less than two trees per acre.

7.4.b.1.I.4. A commercial forestry mitigation plan shall require a permittee who has not achieved commercial forestry productivity requirements by the end of the twelfth growing season to either pay to the Special Reclamation Fund an amount equal to twice the remaining bond amount or to perform an equivalent amount of in-kind mitigation. The Director shall use any money collected under this plan to establish forests on bond forfeiture sites. In-kind mitigation requires establishing forests on AML or bond forfeiture sites. After completion of the mitigation plan, Phase III bond release may be approved if the Director finds that the failure to achieve productivity did not result from a failure to follow the provisions of this rule and did not result in environmental damage.

7.4.b.1.I.5. The Director may release all or part of the bond for the commercial forestry and forestry variance or increment thereof in accordance with this subsection and 38–2–12.2.d. and 12.2.e. of this rule. The Director may release the variance portion if all appropriate standards have been met without regard to the bonding scheme selected for the permit.

SMCRA at section 519(c) and the Federal regulations at 30 CFR 800.40(c) provide for the release of performance bonds. The approved West Virginia program provisions for bond release are at W.Va. Code 22–3–23 and in the rules at CSR 38–2–12.2.c. The new provisions at CSR 38–2–7.4.b.1.I. provide additional bond release requirements for surface mining operations with commercial forestry and forestry postmining land use that receive variances from AOC.

Except as follows, the new provisions at CSR 38–2–7.4.b.1.I. are consistent with and no less stringent than the revegetation success and bond release provisions of SMCRA at sections 515(b)(19) and (20), and 519(c) and no less effective than the Federal bond release and revegetation success regulations at 30 CFR 800.40 and 816.116 and can be approved.

The Federal regulations at 30 CFR 816.116(b)(3) contain the revegetation success standards for areas to be developed for fish and wildlife habitat, recreation or forest products. Minimum stocking and planting arrangements must be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs. In addition, the Federal regulations at 30 CFR 816.116(b)(3)(iii) provide that vegetative cover must not be less than that required to achieve the postmining land use. Furthermore, 30 CFR 816.95 requires all exposed surface areas to be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

The West Virginia Division of Forestry has approved the State's existing tree stocking and ground cover standards at CSR 38–2–9.3.g. and .h. However, there is no evidence that the West Virginia Division of Forestry has reviewed and approved the proposed standards for commercial forestry and forestry as is required by 30 CFR 816.116(b)(3)(i). Therefore, we are not approving these provisions at this time. In addition, we are requiring the WVDEP to consult with and obtain the approval of the West Virginia Division of Forestry on the new stocking standards for commercial forestry and forestry at CSR 38–2–7.4.b.1.I. Under the Federal regulations, this approval can be on a program-wide or permit-specific basis. Since a program-wide approval has not yet been granted by the Division of Forestry, the WVDEP must obtain approval on a permit-specific basis until such time that it receives program-wide approval by the Division of Forestry.

The proposed rule at CSR 38–2–7.4.b.1.I.2. only requires ground cover for surface mining operations with commercial forestry and forestry on slopes greater than 20 percent where there is potential for excessive erosion, and the proposed rule at CSR 38–2–7.4.b.1.G.1. does not require any ground cover on slopes less than 20 percent. The WVDEP has not submitted any evidence to show that the lesser ground cover standards would effectively comply with the vegetative ground cover stabilization standards at 30 CFR 816.95(a), 816.111(a), (b), and (c), 816.114, and 816.116(b)(3)(iii), nor with the water quality standards for offsite discharges from disturbed areas at 30 CFR 816.42. Section 22–3–23(c) of the W.Va. Code provides that no part of the bond or deposit may be released so long as the lands to which the release would be applicable are contributing additional suspended solids to streamflow or runoff outside the permit

area in excess of the requirements set by section 22–3–13 (concerning the performance standards). Therefore, Phase II bond cannot be released under new section 38–2–7.4.b.1.I.2. so long as the lands to which the release would be applicable are contributing additional suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by section 22–3–13.

As we found above with respect to the ground cover vegetation requirements at CSR 38–2–7.4.b.1.G.1., to be no less effective than the Federal requirements, the Director of the WVDEP may only be allowed to approve lesser or no vegetative cover on slopes less than 20 percent when mulch or other soil stabilizing practices have been used to protect all disturbed areas and it has been demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion. We find that the lack of an absolute requirement for ground cover for slopes greater than 20 percent at CSR 38–2–7.4.b.1.I.2. renders the West Virginia program less effective than the Federal requirements at 30 CFR 816.95(b), 816.111(a), (b), and (c), 816.114, 816.116(b)(3)(iii), and 816.42. Therefore, and for similar reasons, we are not approving language at CSR 38–2–7.4.b.1.I.2. which states, ''where there is potential for excessive erosion on slopes greater than 20%.'' In addition, we are requiring that the West Virginia program be further amended at CSR 38–2–7.4.b.1.I.2. to delete the phrase, ''where there is potential for excessive erosion on slopes greater than 20%.''

The new provision at CSR 38–2–7.4.b.1.I.2. defines ground cover to include tree canopy, shrub, organic litter, herbaceous cover, and rock cover. Under the Federal definition of ground cover at 30 CFR 701.5, ground cover means the area of ground covered by the combined aerial parts of vegetation and the litter that is produced naturally on site. The Federal definition includes only naturally produced organic material, and it does not include ''rock cover.'' In addition, the approved State standards for evaluating vegetative cover at CSR 38–2–9.3 do not refer to either rocks or litter as being included in the term ''vegetative cover.'' Despite these differences, the Federal standard for revegetation success at 30 CFR 816.116(b)(3)(iii) provides that vegetative ground cover shall not be less than that required to achieve the approved postmining land use. Therefore, at a minimum, the vegetative ground cover must not be less than that required to achieve the approved commercial forestry or forestry land use whether or not rocks are included within the State's definition of ground cover.

While rock cover is included in the State's standard for success for Phase II bond release, there appears to be no limit on the amount or size of rock that can be present on the surface. Certainly, large rocks and boulders left on the surface could interfere with the ability to harvest mature trees and, therefore, interfere with the ability to achieve the PMLU. This would render the West Virginia program less effective than 30 CFR 824.11(a)(11) which provides that spoil must be placed as necessary to achieve the approved PMLU. Therefore, we are not approving the words ''rock cover'' as a component of the 70 percent ground cover standard at CSR 38–2–7.4.b.1.I.2. In addition, we are requiring that the West Virginia program be further amended to delete the words ''rock cover'' from CSR 38–2–7.4.b.1.I.2.

In addition, CSR 38–2–7.4.b.1.I.2. incorrectly cites part ''7.4.d.1.G.1.'' as a list of commercial hardwood species. The correct citation is part ''7.4.b.1.H.1.'' This typographical error must be corrected. Therefore, we are requiring that the West Virginia program at CSR 38–2–7.4.b.1.I.2. be further amended to correct the citation error by deleting ''7.4.d.1.G.1.'' and replacing the deleted citation with ''7.4.b.1.H.1.''

CSR 38–2–7.4.b.1.I.4. provides that a permittee who fails to achieve the ''commercial forestry'' productivity requirements at the end of the twelfth growing season must either pay into the Special Reclamation Fund an amount equal to twice the remaining bond amount or perform an equivalent amount of in-kind mitigation. The money collected under this plan will be used to establish forests on bond forfeiture sites. In-kind mitigation requires establishing forests on AML or bond forfeiture sites.

Subdivision I.4. raises some concerns. First, the requirement to pay twice the remaining bond amount in the event of failure, though not specified as such, appears to be a civil penalty provision, particularly because the payment must be deposited into the State's Special Reclamation Fund. W.Va. Code 22–3–17(d)(2) also provides that all civil penalties are to be deposited in the Special Reclamation Fund. Monies deposited in the Special Reclamation Fund can only be used to reclaim lands abandoned after August 3, 1977. Inasmuch as it imposes a civil penalty for failure to meet productivity requirements by the end of the twelfth growing season, which exceeds its current five-year revegetation responsibility period, we must agree that subdivision I.4. comports with the existing State program and is not inconsistent with the civil penalty requirements at section 518 of SMCRA and at 30 CFR part 845 to the extent that payment of the civil penalty will not allow an operator to receive final bond release. However, subdivision I.4. also provides for ''in-kind mitigation'' as an alternative to payment of the civil penalty. Though not specifically authorized under SMCRA or the Federal regulations as a substitute for a civil penalty for non-compliance with a program requirement, reclamation in lieu of civil penalties has been approved by OSM in Pennsylvania. 54 FR 46383, November 3, 1989. In that decision, OSM determined that neither SMCRA nor the Federal regulations specify the method of payment for assessed penalties, and that, therefore, reclamation may be substituted for cash payments, so long as the work to be performed is equivalent in value and the other requirements are met, including the requirement that a cash penalty be paid if reclamation has not been accomplished within a specified amount of time. Id. at 46384. In-kind mitigation may be approvable under this or similar rationale, provided the State further defines this term. However, for the reasons discussed below, we are not approving the use of in-kind mitigation in this rulemaking.

What is more troubling about subdivision I.4 is that it would allow final, Phase III bond release after completion of an in-kind mitigation plan, even where commercial forestry productivity requirements have not been met at the end of the twelve year responsibility period. In this respect, subdivision I.4. appears to be inconsistent with section 519(c)(3) of SMCRA and with 30 CFR 800.40 (c)(3), which provide that no bond shall be fully released until all reclamation requirements of SMCRA or the approved State program, and the permit, are fully met. Moreover, the inconsistency is not cured by the imposition of a twelve year responsibility period, even though this period is longer than the five year revegetation responsibility period imposed by SMCRA, because the new provision does not require that all reclamation requirements be met prior to final bond release. For these reasons, we are not approving the in-kind mitigation provisions at subdivision I.4, nor are we approving the phrase ''or, if a commercial forestry mitigation plan is submitted to the Director, approved and completed,'' contained in subdivision I.3, at this time. We will reconsider our

decision on these provisions, however, if the State provides adequate rationale for substituting in-kind mitigation for civil penalties and will agree that ''Commercial forestry productivity requirements'' are defined solely as the annual height increment criteria contained in subdivision I.3, since these criteria are in addition to the minimum stocking and planting requirements, contained in 30 CFR 816/817.116(b)(3), that partially define revegetation success under the Federal regulations; and, that Phase III bond release will not be granted until all other requirements of the approved State program and the permit are fully met, in accordance with section 519(c)(3) of SMCRA and 30 CFR 800.40(c)(3).

Finally, the meaning of the last sentence of CSR 38–2–7.4.b.1.I.5., which allows the bonding scheme selected for the permit to be ignored, is not clear. However, WVDEP stated in the May 3, 2000, meeting that the provision wouldn't affect the responsibility period or other bond release requirements. Therefore, we are approving CSR 38–2–7.4.b.1.I.5. only to the extent that the provision does not affect the responsibility period or other bond release requirements.

7.4.b.1.J. Front Faces of Valley Fills. This subdivision contains the following requirements.

7.4.b.1.J.1. Front faces of valley fills shall be exempt from the requirements of this rule except that:

7.4.b.1.J.1.(a) They shall be graded and compacted no more than is necessary to achieve stability and non-erodability;

7.4.b.1.J.1.(b) No unweathered shales may be present in the upper four feet of surface material;

7.4.b.1.J.1.(c) The upper four feet of surface material shall be composed of soil and the materials described in 7.4.b.1.D. of this rule, when available, unless the Director determines other material is necessary to achieve stability;

7.4.b.1.J.1.(d) The groundcover mixes described in subparagraph 7.4.d.1.G. shall be used unless the Director requires a different mixture;

7.4.b.1.J.1.(e) Kentucky 31 fescue, serecia lespedeza, vetches, clovers (except ladino and white clover) or other invasive species may not be used; and

7.4.b.1.J.2. Although not required by this rule, native, non-invasive trees may be planted on the faces of fills.

The new provisions at CSR 38–2–7.4.b.1.J. concerning the front faces of valley fills do not add any provisions to the West Virginia program that render the State program less stringent than the Federal provisions concerning excess spoil disposal fills in SMCRA at section 515(b)(22) and the Federal regulations at 30 CFR 816.71 and 816.72. However, new CSR 38–2–7.4.b.1.J. does not make it clear that the proposed State standards are in addition to the excess spoil disposal requirements at W.Va. Code 22–3–13(b)(22) and CSR 38–2–14.14 and apply to all fills, including valley fills. During our meeting with the WVDEP on May 3, 2000, the WVDEP stated that the State's approved excess spoil disposal standards at W.Va. Code 22–3–13(b)(22) and CSR 38–2–14.14 apply to CSR 38–2–7.4.b.1.J. Therefore, we are approving new CSR 38–2–7.4.b.1.J. to the extent that the proposed State standards are in addition to the excess spoil disposal requirements at W.Va. Code 22–3–13(b)(22) and CSR 38–2–14.14 and apply to all fills, including valley fills.

7.4.b.1.K. Long-term Monitoring and Adaptive Management. This provision provides that the Director of the WVDEP shall undertake, with the assistance of the Division of Forestry or other forestry research units, a performance assessment of all Commercial Forestland permits within 10 years of Phase III bond release. Species composition, biodiversity, productivity, carbon capture, wildlife habitat, stream and wetland biota, and hydrologic function will be assessed. Results will be reported, analyzed, interpreted and used as part of an adaptive management program to improve the regulations and guidelines for Commercial Forestland.

There is no counterpart to this provision in SMCRA or the Federal regulations. The new provision is not, however, inconsistent with SMCRA or the Federal regulations. Therefore, this provision can be approved.

11. CSR 38–2–14.12. Variance from AOC requirements.

This provision is amended at subdivision 14.12.a.1. to delete the word ''woodlands'' and add in its place the words ''commercial forestry.'' As amended, the provision provides that the permit area for an AOC variance must be, ''located on steep slopes as defined in subdivision 14.8.a of this rule and the land after reclamation is suitable for industrial, commercial, residential, commercial forestry, or public use (including recreational facilities).'' This change renders the provision less stringent than SMCRA at section 515(e)(2) concerning steep slope mining operations seeking a variance from the AOC requirements because agricultural uses (including forestry and commercial forestry) are not authorized for postmining land uses for steep slope mining operations seeking a variance from the AOC restoration requirements.

SMCRA at section 515(e)(2) provides that a variance for steep slope mining operations from the AOC requirement may be granted by the regulatory authority in cases where the PMLU will be industrial, commercial, residential, or public use (including recreational facilities) use. The ''agricultural'' PMLU is not authorized at section 515(e)(2). On September 1, 1983 (48 FR at 39893) OSM amended its rules concerning postmining land uses and variances. In the preamble, OSM discussed amending the definition of ''land use'' at 30 CFR 701.5. In that discussion, OSM stated that ''Agricultural use is interpreted as including cropland, pastureland or land occasionally cut for hay, grazingland, and forestry.'' We have considered ''forestry'' to be a subset of the ''agricultural'' PMLU since 1983. Therefore, to be no less effective than the Federal regulations, neither forestry nor commercial forestry can be approved under CSR 38–2–14.12.a.1. for steep slope mining operations seeking a variance from the AOC restoration requirements.

Therefore, we are not approving the term ''commercial forestry'' at CSR 38–2–14.12.a.1., because section 515(e)(2) of SMCRA does not authorize agricultural uses (including forestry uses) as postmining land uses for steep slope operations seeking a variance from the requirement to return the mined area to AOC. In addition, we are requiring the State to remove the term ''commercial forestry'' from CSR 38–2–14.12.a.1.

12. CSR 38–2–14.15. Contemporaneous reclamation standards.

This provision is amended at subdivision 14.15.f. concerning contemporaneous reclamation variances for permit applications to add a sentence which reads as follows: ''Furthermore, the amount of bond for the operation shall be the maximum per acre specified in WV Code § 22–3–12(c)(1).'' In effect, under this provision, permits which receive a contemporaneous reclamation variance under CSR 38–2–14.15.f. shall be bonded at the maximum amount per acre specified in WV Code 22–3–12(c)(1).

There is no direct Federal counterpart to this provision. Contemporaneous reclamation variances are not specifically authorized under the Federal regulations, but they are allowed under CSR 38–2–14.15. The proposed change is to ensure that the bond amount will be sufficient to complete the reclamation plan of a revoked permit with a contemporaneous reclamation variance in the event of bond forfeiture. The requirement to set bond at the maximum amount per acre specified in WV Code 22–3–12(c)(1)

does not render the West Virginia program less stringent than SMCRA at section 509, nor less effective than the Federal bonding provisions at 30 CFR 800.14 and can be approved.

IV. Summary and Disposition of Comments

Federal Agency Comments

On April 12, 2000, we asked for comments from various Federal agencies who may have an interest in the West Virginia amendment (Administrative Record Number WV–1152). We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations.

The U.S. Department of Labor, Mine Safety and Health Administration responded and stated that it had no comments (Administrative Record Number WV–1162).

The U.S. Department of Army, Corps of Engineers responded and stated that it found the amendments to be satisfactory (Administrative Record Number WV–1164).

The U.S. Fish and Wildlife Service (USFWS) responded (Administrative Record Number WV–1161) with the following comments. Concerning Senate Bill 614, the USFWS stated that it seems inappropriate, at W.Va. Code 22–3–23(c)(2)(C), to release bond if vegetation is not established.

We believe the commenter has misinterpreted the provision. The proposed provision provides that revegetation must be established on the regraded mine land. However, as discussed in Finding A.3. above, we disapproved the language that would allow release of bond if the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.

The USFWS had the following comments on the provisions of House Bill 4223. Concerning the transfer, reinstatement, assignment, or sale of permit rights provisions at CSR 38–2–3.25, the USFWS recommended that there be a time limit imposed for commencement of mining operations and/or reclamation for permits that are ''reinstatements.'' In response, while CSR 38–2–3.25 does not impose a time limitation on the reinstatement of revoked permits, West Virginia Code 22–3–17(b), which was approved by OSM on February 9, 1999, 64 FR 6203), clearly provides that the reinstatement of revoked permits must occur within one year following the notice of permit revocation. Revoked permits that are not reinstated during the one-year period will not be eligible for reinstatement. As discussed above under Finding 7, this provision does not allow the State to delay reclamation of bond forfeiture sites. It merely provides that permits which are revoked may be reinstated within one year of permit revocation provided the requirements of West Virginia Code 22–3–17(b) and CSR 38–2–3.25 are satisfied. Upon approval of a permit reinstatement, the permittee immediately assumes responsibility for all the requirements, conditions, and obligations of the permit, including the responsibility for the correction of any outstanding unabated violations. The new permittee is also subject to all of the requirements of the WVSCMRA and its implementing rules.

The USFWS stated that at two places in new CSR 38–2–7.4.b.1.H.2. and at one place in CSR 38–2–7.4.b.1.I.2., references are incorrectly made to CSR 38–2–7.4.b.1.G.1. for a list of species to be used as woody plants. However, CSR 38–2–7.4.b.1.G.1. lists only ground cover species, not woody species. The references should be made to CSR 38–2–7.4.b.1.H., tree species and compositions. In response, we agree that the citations are incorrect. As discussed above in Finding B.10.b., we have identified the citation errors, and have required that the West Virginia program be further amended to correct the errors.

The USFWS stated that it sees no reason for the authorization at CSR 38–2–7.4.b.1.H.4. that conifers, instead of hardwoods, may be planted on southwest-facing slopes greater than 10% or areas where the soil pH is less than 5.5. The USFWS stated that hardwoods do very well on slopes greater than 10% and with soil pH less than 5.5. The proposed rule does not prohibit the planting of hardwoods (commercial species) on southwest-facing slopes, but merely limits areas where conifers may be planted. Generally, hardwoods grow best on northern-facing slopes. The optimum medium for tree growth has been demonstrated to have a pH of between 5.0 and 6.0. Conifers grow best in soil with a pH of less than 5.5. We agree that many hardwoods in the State are growing on slopes greater than 10%. While the proposed rule does not prohibit the planting of hardwoods on steep slopes, it is recommended that hardwoods be restricted to less than 10% slopes to allow for improved harvesting and because the soil in these areas will be loosely compacted to maximize tree growth and productivity.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to solicit comments and obtain the written concurrence of the EPA with respect to those provisions of the proposed 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.*). By letter dated April 10, 2000, we requested comments and concurrence from EPA (Administrative Record No. WV–1151) on the State's proposed amendment of March 14, 2000 (Administrative Record Number WV-1147) and March 28, 2000 (Administrative Record Number WV–1148), and electronic mail dated April 6, 2000 (Administrative Record Number WV–1149).

By letter dated June 21, 2000, the EPA responded and stated that it has reviewed the proposed revisions and has determined that they comply with the Clean Water Act. The EPA further stated that its review indicates that the proposed revisions do not appear to relate to air emissions or other issues which EPA would regulate under the Clean Air Act. Therefore, the EPA concurred with the proposed revisions.

In addition, the EPA provided comments and recommendations on several concerns regarding potential water quality impacts. EPA also noted that in a number of places the State provisions indicate that they are intended to comply with the Consent Decree between WVDEP and the Plaintiff in Civil Action No. 2:98–0636. The EPA stated that it is not a party to that Consent Decree. Accordingly, the EPA stated its comments are not intended and should not be construed as a determination by EPA as to whether any particular provision does or does not comply with the referenced Consent Decree.

EPA submitted several comments, including comments on the standards applicable to AOC variance operations with a postmining land use of commercial forestry and forestry at CSR 38–2–7.4, and postmining land use of homestead at CSR 38–2–7.5. We will address EPA's comments which concern the homestead postmining land use at CSR 38–2–7.5. in a separate **Federal Register** notice at a later date. The remainder of EPA's comments are addressed below.

1. *Applicable State and Federal laws/regulations*—The EPA stated that there are a number of Federal and State statutes and regulations protective of air and/or water quality which may apply to commercial forestry. The EPA recommended that the regulations governing each postmining land use include a statement that activities performed in connection with the

postmining use must comply with all applicable State and Federal laws and regulations.

In response, we agree that the State regulations governing each postmining land use could be improved by including a statement that the provisions must comply with all applicable State and Federal laws and regulations. However, there is nothing in the new commercial forestry provisions that precludes or prohibits compliance with all applicable State and Federal laws and regulations. Therefore, the lack of such a statement in the State's commercial forestry provisions does not render the new provisions less effective than the Federal regulations.

2. *AOC variances*—The EPA stated that in general, its concerns with AOC variances are that they limit the amount of spoil placed back on mined areas and usually necessitate the creation or expansion of valley fills which cover biologically productive waters of the United States. Therefore, the EPA stated, it believes that the use of AOC variances should be minimized, and it strongly recommended that any necessary variances be scrutinized in order to determine: (1) Whether all practicable alternatives to the discharge have been evaluated pursuant to EPA's Section 404(b)(1) guidelines; (2) whether spoil disposal in valley fills has been minimized to the extent compatible with those uses; and, (3) whether the project complies with all applicable regulations, including the buffer zone regulations.

For the most part, EPA's comments concerning AOC do not relate directly to any of the specific amendments to the West Virginia program being addressed in this notice. Rather, the EPA's comment relates to the general concept of AOC variances, and the regulatory authority's role in reviewing and approving proposed variances. It should be noted, however, that the State's reference to its AOC policy at CSR 38–2–7.4.b.1.D.10. should ensure compliance with the State's AOC variance requirements, which in turn should satisfy the concerns listed above by EPA.

3. *Erosion and sedimentation control*—The EPA stated that the State's requirements for commercial forestry are very comprehensive and appear to include ample conditions for promoting successful tree growth. However, the EPA stated, it has concerns about possible excessive erosion and runoff at commercial forestry sites. Although section CSR 38–2–7.4.b.1.G.1. of HB 4223 requires a temporary erosion control vegetative cover until a permanent tree cover is established, CSR 38–2–7.4.b.1.E. requires mine spoil to be placed loosely in a non-compacted manner in order to provide a porous growing base for trees. Also, the EPA stated, CSR 38–2–7.5.j.6.B. indicates that at homestead sites, regrading and reseeding may take place only on those rills and gullies which are unstable. We note that a similar provision exists in the commercial forestry provisions at CSR 38–2–7.4.b.1.G.3. While it is understood, the EPA stated, that porous soil must be provided for effective tree growth, the requirement of uncompacted backfills, as well as unseeded rills and gullies, appear to increase the potential for sediment runoff and resulting stream degradation during storm periods. The EPA recommended consideration of options to avoid such situations, including limiting uncompacted areas to just the areas immediately around the tree plantings, maintaining effective sedimentation control ponds below these areas, and providing extensive vegetative cover in all areas except directly adjacent to tree plantings.

In response, and as noted above in Finding B.10.b., CSR 38–2–7.4.b.1.G.1. provides that on slopes less than 20 percent, the Director of the WVDEP may approve lesser or no erosion control vegetative cover when tree growth and productivity will be enhanced and excessive sedimentation will not result. In addition, CSR 38–2–7.4.b.1.I.2. only requires 70 percent ground cover where there is the potential for excessive erosion on slopes greater than 20 percent.

Temporary vegetation does to some extent compete with tree species during the early growing seasons. However, such vegetative cover is essential to ensure soil stability and prevent erosion. 30 CFR 816.114 requires that mulch and other soil stabilizing practices be used to protect the topsoil and topsoil substitutes even prior to the establishment of the temporary vegetative cover. In addition, the Federal regulations at 30 CFR 816.95(a) require that all exposed surface areas be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

We have determined that, as proposed, CSR 38–2–7.4.b.1.G.1. and 7.4.b.1.I.2. are less effective than the Federal requirements at 30 CFR 816.42, 816.95(a), 816.111, and 816.114. To be no less effective than the Federal requirements, the Director can only be allowed to approve lesser or no vegetative cover on slopes less than 20 percent when mulch or other soil stabilizing practices have been used to protect all disturbed areas and it has been demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion. We have required the deletion of the word ''excessive,'' from the proposed State rule at CSR 38–2–7.4.b.1.G.1 to ensure compliance with State water quality requirements at CSR 38–2–14.5.b. and required the State to amend its rules at CSR 38–2–7.4.b.1.G.1 to provide that lesser or no vegetative cover may only be authorized by the Director when mulch or other soil stabilizing practices have been used to protect all disturbed areas and it has been demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion regardless of slope. Furthermore, we are not approving and requiring the State to amend CSR 38–2–7.4.b.1.I.2 to delete the phrase, ''where there is potential for excessive erosion on slopes greater than 20 percent.''

CSR 38–2–7.4.b.1.G.3. only authorizes the regrading and reseeding of rills and gullies that are unstable. Normally, the presence of unstable rills and gullies indicates that excessive erosion has already occurred. The Federal regulations at 30 CFR 816.95(b) require the regrading of all rills and gullies that disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of water quality standards for the receiving stream. Therefore, we have approved CSR 38–2–7.4.b.1.G.3. only to that extent. In addition, in accordance with 30 CFR 816.95(b) and 816.111, we have required the State to revise CSR 38–2–7.4.b.1.G.3 to require the repair of all rills and gullies that disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of water quality standards for the receiving stream.

4. *AOC definition change*—The EPA stated that section 22–3–3(c) of SB 614 changes the requirement for achieving AOC from ''disturbed'' areas to ''mined'' areas. Since the overall area disturbed during a mining operation is greater than just the area where coal extraction takes place, the EPA stated that it is concerned that this change reduces the area subject to AOC.

In response, as discussed above in Finding A.1., the amended phrase is identical to, and therefore no less effective than, the counterpart language in SMCRA at section 701(2), and the Federal definition of AOC at 30 CFR 701.5.

5. *Bond release water quality criteria*—The EPA stated that sections 22–3–23(c)(2) and (c)(2)(C) of SB 614

state that bond release for approval of AOC variances may be made where the quality of the untreated postmining water discharged is better than or equal to the pre-mining water quality discharged from the mining site. The EPA noted that there may be instances where provisions of the Clean Water Act (CWA) would apply to the discharge of the untreated postmining water. In such instances, compliance with section 22–3–23(c)(2) would not relieve the discharger from compliance with any applicable provisions of the CWA.

In response, and as discussed above in Finding A.3., we did not approve the language at section 22–3–23(c)(2)(C) which is of concern to the EPA. Under that language, bond could be released where the quality of the water being discharged from the reclaimed mine site does not meet effluent limitations and applicable State and Federal water quality standards as required by section 519(c) of SMCRA and 30 CFR 816.42 and 817.42. Therefore, we found that the language is less stringent than SMCRA and less effective than the Federal regulations and can not be approved.

Public Comments

We solicited public comments on the amendment. One person responded with comments. The commenter stated that at section 22–3–23(c)(2)(C) of the W.Va. Code, the new bond release provision would allow bond release for operations with an approved AOC variance where the quality of postmining water discharges is better than or equal to the quality of premining discharges. The commenter stated that this provision is less stringent than SMCRA at section 519(c)(2) which, by cross reference to section 515(b)(10) requires postmining discharges to meet effluent limitations of State and Federal law. We agree with this comment. As noted above at Finding A.3., we did not approve this provision because discharges from mine sites must meet effluent limitations and applicable State and Federal water quality laws at all times and all reclamation requirements of SMCRA must be fully met prior to final bond release. In addition, we have also required that the West Virginia program be further amended to delete the disapproved provision.

CSR 38–2–7.4.a.1. The commenter stated that the new rule at section 38–2–7.4.a.1. would allow commercial forestry and forestry to be approved as ''higher or better'' postmining land uses on areas of permits granted variances from AOC. The commenter stated that the provision should not be approved because it is inconsistent with Congressional intent, as expressed in the OSM's draft postmining land use (PMLU) policy guidelines for mountaintop removal and steep slope mining operations seeking a variance from the AOC requirements. We disagree with this comment. We maintain that the commercial forestry and forestry use, as proposed by the State, is an acceptable postmining land use for mountaintop removal operations as provided in section 515(c)(3) of SMCRA and can satisfy the Federal ''higher or better'' use criteria at 30 CFR 701.5 and 30 CFR 816.133. However, we agree that, as presented, this postmining land use does not satisfy the postmining land use requirements for a steep slope mining operation with a variance from AOC at section 515(e)(2) of SMCRA.

The commenter stated that, as clarified on page 3, paragraph 2 of the Introduction (I.A.) of the draft October 1999, PMLU policy guidelines, any specific PMLU will, with rare exceptions, be approved only where the use could not be achieved without a waiver of the AOC requirement. Commercial forestry and forestry, the commenter asserted, can be achieved on the premining landscape. In response, we note that the commenter has inaccurately paraphrased the draft October 1999, PMLU guidelines. In addition, in response to public comment we revised this language in the PMLU final policy that was released on June 23, 2000. The final PMLU policy guidelines states, at page 1, section I.A., that, ''a postmining land use cannot be approved where the use could be achieved without waiving the AOC requirement, except where it is demonstrated that a significant public or economic benefit will be realized therefrom.'' We removed the words, ''in those rare instances'' from the draft language. These words were deleted to clarify that a decision concerning whether or not to approve a proposed PMLU should not be narrowly focused on whether or not the proposed use could be achieved on the premining land or on land returned to AOC. Rather, the focus of whether or not to approve a proposed PMLU should be on whether or not the proposed PMLU represents a significant public or economic benefit when compared with the premining use. This is consistent with a plain reading of SMCRA at section 515(c)(3)(A). Therefore, the possibility that forestry can be conducted on premining steep slope lands or on lands returned to AOC, would not of itself disqualify a proposed use from being approved as a PMLU for mountaintop removal operations. Instead, this possibility must be considered by the regulatory authority as part if its assessment of whether or not the proposed PMLU represents a significant public or economic benefit when compared with the premining use. This is the assessment that must be made by the regulatory authority prior to permit approval.

The commenter also stated that gently rolling contours do not enhance the growth and harvesting of commercial species, and would not accept such an assertion unless the State provides technical documentation applicable to the appropriate forest types. In response, the State's landscape criteria at CSR 38–2–7.4.b.1.C.1. do require a rolling and diverse landscape and it is generally agreed that harvesting of commercial tree species on gently rolling slopes is easier, safer, and less expensive than harvesting which is conducted on steep slopes. In addition, this provision is in accordance with SMCRA at section 515(c)(2) which provides that the State regulatory authority may only grant a permit for mountaintop removal mining operations where, among other requirements, the permittee will create a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting the proposed postmining use.

The commenter stated that to be approvable, a proposed PMLU must represent or require intensive management in order to qualify for an AOC variance. We disagree with this comment. The decision that a regulatory authority must make is not whether or not a proposed PMLU requires intensive management but, as required by SMCRA at section 515(c)(3)(A), whether a proposed PMLU represents a public or economic benefit when compared with the premining use. If a proposed PMLU is a low-intensity use, the regulatory authority must take particular care to assess the proposed use to determine whether or not the use represents a public or economic benefit when compared with the premining use. For example, a proposed low-intensity agricultural use of pastureland, where only a few cattle will be grazing on the proposed PMLU area is unlikely to provide an economic benefit to the public or the landowner when compared with the premining use. However, a proposed pastureland use that would support a dairy operation with 150 head of cattle would likely yield significant economic benefit to the landowner and the community. In that same sense, a premining forest that is occasionally harvested for timber may be compared to a proposed commercial

forestry PMLU. Even though it may be argued that a commercial forestry operation is not a high-intensity use, it may be considered by the regulatory authority and land use planning agencies to be an economic or public benefit when compared to the premining use. Such a use may be deemed to represent a higher or better use (as is required by 30 CFR 816.133(c)) because of anticipated increased yields of higher quality timber, more jobs for timber management and harvesting, or the potential for creating sustainable wood product industries such as the manufacturing of hardwood flooring or fine hardwood furniture.

CSR 38–2–7.3.c. The commenter stated that the first sentence concerning the prohibition of grassland uses should be approved. As noted above in Finding B.9., we have approved this prohibition. The commenter also stated that the second sentence, which delays the implementation of this provision until OSM approves the proposed forestry and homestead provisions should not be approved. The commenter based this comment on the assertion that forestry cannot be approved as a PMLU for mountaintop removal mining operations. We disagree with this comment. As discussed above in Finding B.10.a., commercial forestry can be approved as a PMLU for mountaintop removal mining operations. We have recognized forestry as an agricultural PMLU use since 1983 (September 1, 1983; 48 FR at 39893), and agricultural PMLU is authorized by SMCRA at section 515(c)(3) as a PMLU for mountaintop removal operations. Of course, to be in compliance with SMCRA section 515(c) and the implementing Federal regulations, prior to approving any PMLU, the regulatory authority must consult with land use planning agencies to determine whether the proposed PMLU will result in a net public or economic benefit when compared with the premining use. Therefore, if the applicable requirements of SMCRA and Federal regulations are met, commercial forestry may be approved as a PMLU for mountaintop removal mining operations. Also, the continued use of grassland as a PMLU until OSM approves commercial forestry and homesteading as PMLU's is not inconsistent with section 515(c)(3) of SMCRA, since that provision allows grassland as an agricultural PMLU for mountaintop removal mining operations.

CSR 38–2–7.4.b.1.K. The commenter stated agreement with this provision which requires the WVDEP to undertake a future investigation of all commercial forestland permits to determine the success of the program and to make changes if indicated. We concur with this comment.

The commenter also stated that it isn't clear whether or not the requirement would apply outside AOC-variance areas. In response, CSR 38–2–7.4. pertains only to AOC variance operations with a PMLU of commercial forestry and forestry. However, scientific data and evidence gained from monitoring productivity, biodiversity, and hydrologic functions on both the AOC and non-AOC portions of permits with AOC variances will most likely benefit other operations throughout the State.

Finally, the commenter asked whether the WVDEP would still have right of entry ten years after Phase III bond release. In response, under SMCRA at section 517(b)(3), the regulatory authority has right of entry to any permitted or unpermitted surface coal mining and reclamation operation. At the time of final bond release, the WVDEP usually terminates jurisdiction. It will be up to the State, in these situations, to determine what special provisions must be made in the forest management plans or lease agreements to allow State officials and other researches access to these sites after final bond release to conduct the required studies. However, there is no counterpart to the provision in SMCRA, and we have approved the provision because it is not inconsistent with the requirements of SMCRA.

The commenter had additional comments concerning CSR 38–2–7.5, the Homestead PMLU. As noted above in the second paragraph of Section III, we have separated from this amendment the Homestead PMLU provisions at CSR 38–2–7.5. We will render our findings on new CSR 38–2–7.5 in a separate final rule notice to be published in the **Federal Register**, and will address the commenter's statements concerning CSR 38–2–7.5 at that time.

V. Director's Decision

Based on the findings above, and except as noted below, we are approving the amendments to the West Virginia program.

Section 22–3–13(c)(3) of the W. Va. Code is approved to the extent that the term ''public facility (including recreational uses)'' is interpreted to mean the same as the SMCRA term ''public facility (including recreational facilities).'' In addition, most of the required amendment codified at 30 CFR 948.16(iiii) is satisfied and can be deleted. However, we are continuing to require at (iiii), that the State amend the term ''recreational uses'' at W.Va. Code 22–3–13(c)(3) to mean ''recreational facilities use'' at SMCRA section 515(c)(3).

Section 22–3–23(c)(2) of the W. Va. Code is approved except that the proviso at subsection (c)(2)(C) which states, ''Provided, however, That the release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site'' is not approved. We are requiring that the West Virginia program at section 22–3–23(c)(2)(C) be further amended to delete the proviso concerning bond release if the quality of postmining untreated discharge water is better than or equal to the premining water quality discharged from the site.

CSR 38–2–2.31.b. must be amended to clearly define forestry to mean a postmining land use used or managed for the long term production of wood or wood products in accordance with the Federal definition of ''forestry'' under the definition of ''land use'' at 30 CFR 701.5.

CSR 38–2–3.25.b. must be further amended to: (1) provide that in no event can a reinstated permit be approved in advance of the close of the public comment period; and (2) add the word ''reinstatement'' to the phrase ''transfer, assignment, or sale'' in the second sentence of CSR 38–2–3.25.a.4.

CSR 38–2–7.4.a.1. is approved only to the extent that it applies to mountaintop removal mining operations that receive an AOC variance pursuant to W.Va. Code 22–3–13(c). We are requiring that the West Virginia program be further amended to make it clear that at CSR 38–2–7.4.a.1., only commercial forestry postmining use and not forestry postmining use may be approved for areas receiving a variance from the AOC requirements.

CSR 38–2–7.4.b.1.A. is approved only to the extent that it supplements, but does not supersede, the existing mountaintop removal permitting requirements and performance standards at W.Va. Code 22–3–13(c) and CSR 38–2–14.10; and to the extent that the use of best management practices at CSR 38–2–7.4.b.1.A.4.(e) will be limited to postmining timber harvesting practices conducted after final bond release and not as a substitute for the sediment control practices required at CSR 38–2–5.4 during mining and reclamation activities. Moreover, the termination of jurisdiction portion of CSR 38–2–7.4.b.1.A.1. is approved, but only to the extent that the State also applies the reassertion of jurisdiction

requirements in its program at CSR 38–2–1.2.d. to these sites.

At CSR 38–2–7.4.b.1.C.5., the phrase, ''except for ponds and impoundments located below the valley fills'' is not approved. We are requiring the State to either remove the phrase, ''except for ponds and impoundments located below the valley fills,'' from CSR 38–2–7.4.b.1.C.5 or revise the language to clarify that ponds and impoundments below the fill that are left in place must meet the requirements of CSR 38–2–5.5.

At CSR 38–2–7.4.b.1.D.2, we are not approving the phrase, ''except for those areas with a slope of at least 50%.'' We are requiring the State to delete the phrase ''except for those areas with a slope of at least 50%'' from its regulations at CSR 38–2–7.4.1.D.2. Furthermore, we are requiring the State to define the terms O and Cr soil horizons.

CSR 38–2–7.4.b.1.D.6. must be further amended to provide that the substitute material is equally suitable for sustaining vegetation as the existing topsoil and the resulting medium is the best available in the permit area to support vegetation.

CSR 38–2–7.4.b.1.D.10. is approved with the understanding that the design and construction requirements set forth in CSR 38–2–3.7 and 38–2–14.14 for the disposal of excess spoil must also be satisfied.

CSR 38–2–7.4.b.1.E. is approved to the extent that these provisions do not supersede the State's general backfilling and grading requirements at CSR 38–2–14.15.a.

At CSR 38–2–7.4.b.1.G.1., the word ''excessive'' is not approved. We are requiring the deletion of the word ''excessive'' at CSR 38–2–7.4.b.1.G.1. We are also requiring that CSR 38–2–7.4.b.1.G.1. be further amended to provide that lesser or no vegetative cover may only be authorized by the Director when mulch or other soil stabilizing practices have been used to protect all disturbed areas and it has been demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion regardless of slope.

CSR 38–2–7.4.b.1.G.3. is approved only to the extent that it is interpreted to require the repair of all rills and gullies that disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of water quality standards for the receiving stream. We are requiring that CSR 38–2–7.4.b.1.G.3. be further amended to require the repair of all rills and gullies that disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of water quality standards for the receiving stream.

CSR 38–2–7.5.b.1.H.2. must be amended to correct a typographical error by deleting ''7.4.d.1.G.1.'' in two places and replacing the deleted citation with ''7.4.b.1.H.1.''

At CSR 38–2–7.4.b.1.I., the new stocking standards for commercial forestry and forestry are not approved. We are requiring the WVDEP to consult with and obtain the approval of the West Virginia Division of Forestry on the new stocking standards for commercial forestry and forestry at CSR 38–2–7.4.b.1.I.

At CSR 38–2–7.4.b.1.I.2., we are not approving the phrase, ''where there is potential for excessive erosion on slopes greater than 20%.'' In addition, CSR 38–2–7.4.b.1.I.2. must be amended to delete the phrase, ''where there is potential for excessive erosion on slopes greater than 20%.''

At CSR 38–2–7.4.b.1.I.2., the words ''rock cover'' are not approved. We are requiring that the words ''rock cover'' be deleted from CSR 38–2–7.4.b.1.I.2.

CSR 38–2–7.4.b.1.I.2. must be amended to correct the citation error by deleting ''7.4.d.1.G.1.'' and replacing the deleted citation with ''7.4.b.1.H.1.''

At CSR 38–2–7.4.b.1.I.3. the phrase ''or, if a commercial forestry mitigation plan is submitted to the Director, approved, and completed'' is not approved.

At CSR 38–2–7.4.b.1.I.4., the requirement to pay twice the remaining bond amount is approved to the extent that payment of the civil penalty will not allow an operator to receive final bond release. We are not approving the remainder of CSR 38–2–7.4.b.1.I.4. concerning in-kind mitigation plan.

CSR 38–2–7.4.b.1.I.5. is approved only to the extent that the provision does not affect the responsibility period or other bond release requirements.

CSR 38–2–7.4.b.1.J. is approved to the extent that the proposed State standards are in addition to the excess spoil disposal requirements at W.Va. Code 22–3–13(b)(22) and CSR 38–2–14.14 and apply to all fills, including valley fills.

At CSR 38–2–14.12.a.1., the term ''commercial forestry'' is not approved. We are requiring the State to remove the term ''commercial forestry'' from CSR 38–2–14.12.a.1.

The required program amendment codified at 30 CFR 948.16(www) is satisfied and can be deleted.

The required program amendment codified at 30 CFR 948.16(xxx) is satisfied and can be deleted.

The required program amendment codified at 30 CFR 948.16(vvv)(1)(1) can be deleted.

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 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 regulation.

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 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 28, 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 948—WEST VIRGINIA

1. The authority citation for part 948 continues to read as follows:

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

2. Section 948.12 is amended by adding new paragraph (b) to read as follows.

§ 948.12 State statutory, regulatory, and proposed program amendment provisions not approved.

* * * * *

(b) We are not approving the following provisions of the proposed program amendment that West Virginia submitted on March 14, 2000, March 28, 2000, and April 6, 2000:

(1) The proviso at W.Va. Code 22–3–23(c)(2)(C) which concerns Phase III bond release where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.

(2) At CSR 38–2–7.4.b.1.C.5., the phrase, ''except for ponds and impoundments located below the valley fills.''

(3) At CSR 38–2–7.4.b.1.D.2, the phrase, ''except for those areas with a slope of at least 50%.''

(4) At CSR 38–2–7.4.b.1.G.1., the word ''excessive.''

(5) At CSR 38–2–7.4.b.1.I., the new stocking standards for commercial forestry and forestry.

(6) At CSR 38–2–7.4.b.1.I.2., the phrase, ''where there is potential for excessive erosion on slopes greater than 20%.''

(7) At CSR 38–2–7.4.b.1.I.2., the words ''rock cover.''

(8) At CSR 38–2–7.4.b.1.I.3., the phrase ''or, if a commercial forestry mitigation plan is submitted to the Director, and approved and completed.''

(9) The portion of CSR 38–2–7.4.b.1.I.4. concerning in-kind mitigation plans.

(10) At CSR 38–2–14.12.a.1., the term ''commercial forestry.''

* * * * *

3. Section 948.15 is amended by adding a new entry to the table in chronological order by ''Date of publication of final rule'' to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of publication of final rule	Citation/description
* * *	* * *	* * *
March 14, 2000, March 28, 2000, and April 6, 2000.	August 18, 2000	W.Va. Code 22–3– at 3(e), (u)(2); (y); 13(c)(3) (qualified approval), (c)(3)(B)(iii); 23(c)(1), (2) (partial approval). CSR 38–2– at 2.31, 2.45, 2.98, 2.123, 2.136; 3.8c; 3.25; 7.2.i; 7.3; 7.4.a (qualified approval): 7.4.b.1; 7.4.b.1.A. (qualified approval), 7.4.b.1.B., C. (partial approval), D. (partial approval), E. (qualified approval), F., G. (partial approval), H., I. (partial approval), J. (qualified approval), K.; 14.15.f.

4. Section 948.16 is amended by removing and reserving paragraphs (www), and (xxx), revising paragraphs (vvv)(1) and (iiii), and adding paragraphs (qqqq) through (eeeee) to read as follows:

§ 948.16 Required regulatory program amendments.

* * * * *

(vvv) * * *

(1) Amend the West Virginia program to be consistent with 30 CFR 701.11(e)(2) by clarifying that the exemption at CSR 38–2–3.8(c) does not apply to the requirements to restore the land to approximate original contour.

* * * * *

(iiii) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend the term ''recreational uses'' at W.Va. Code 22–3–13(c)(3) to mean ''recreational facilities use'' at SMCRA section 515(c)(3).

* * * * *

(qqqq) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to delete the proviso from W. Va. Code 22–3–23(c)(2)(C) which provides that Phase III bond can be released if the quality of postmining untreated discharge water is better than or equal to the premining water quality discharged from the site.

(rrrr) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–2.31.b. to clearly define forestry to mean a postmining land use used or managed for the long term production of wood or wood products in accordance with the Federal definition of forestry under the definition of land use at 30 CFR 701.5.

(ssss) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–3.25 to: (1) add the word ''reinstatement'' to the phrase ''transfer, assignment, or sale'' in the second sentence of subdivision CSR 38–2–3.25.a.4., and (2) amend 38–2–3.25.b. to provide that in no event can a reinstated permit be approved in advance of the close of the public comment period.

(tttt) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to make it clear that at CSR 38–2–7.4.a.1., only commercial forestry postmining use and not forestry postmining use may be approved for areas receiving a variance from the AOC requirements.

(uuuu) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to either remove the phrase, ''except for ponds and impoundments located below the valley fills,'' from its regulations at CSR 38–2–7.4.b.1.C.5 or revise the language to clarify that ponds and impoundments below the fill that are left in place must meet the requirements of CSR 38–2–5.5.

(vvvv) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to delete the phrase ''except for those areas with a slope of at least 50%'' from its regulations at CSR 38–2–7.4.1.D.2. Furthermore, the State must define the terms O and Cr soil horizons.

(wwww) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–7.4.b.1.D.6. to provide that the substitute material is equally suitable for sustaining vegetation as the existing topsoil and the resulting medium is the best available in the permit area to support vegetation.

(xxxx) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to: (1) delete the word ''excessive'' at CSR 38–2–7.4.b.1.G.1.; and (2) provide that at CSR 38–2–7.4.b.1.G.1., lesser or no vegetative cover may only be authorized by the Director when mulch or other soil stabilizing practices have been used to protect all disturbed areas and it has been demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion regardless of slope.

(yyyy) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to amend CSR 38–2–7.4.b.1.G.3. to require the repair of all rills and gullies that disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of water quality standards for the receiving stream.

(zzzz) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–7.4.b.1.H.2. by deleting ''7.4.d.1.G.1.'' in two places and replacing the deleted citation with ''7.4.b.1.H.1.''

(aaaaa) By October 17, 2000, West Virginia WVDEP must consult with and obtain the approval of the West Virginia Division of Forestry on the new stocking standards for commercial forestry and forestry at CSR 38–2–7.4.b.1.I.

(bbbbb) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–7.4.b.1.I.2., or otherwise amend the West Virginia program, to delete the phrase, ''where there is potential for excessive erosion on slopes greater than 20%.''

(ccccc) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–7.4.b.1.I.2. to delete the words ''rock cover.''

(ddddd) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–7.4.b.1.I.2. to correct the citation error by deleting ''7.4.d.1.G.1.'' and replacing the deleted citation with ''7.4.b.1.H.1.''

(eeeee) By October 17, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to delete the term ''commercial forestry'' at CSR 38–2–14.12.a.1.

[FR Doc. 00–20800 Filed 8–17–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301032; FRL–6599–4]

RIN 2070–AB78

Fosetyl–Al; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of fosetyl–Al in or on cranberries. Interregional Research Project Number 4 (IR4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act, (FFDCA) as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective August 18, 2000. Objections and requests for hearings, identified by docket control number OPP–301032, must be received by EPA on or before October 17, 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–301032 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

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

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

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

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301032. 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 June 21, 2000 (65 FR 38535) (FRL–6558–9), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by IR–4, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390. This notice included a summary of the petition prepared by Aventis, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.415 be amended by establishing a tolerance for residues of the fungicide fosetyl–Al, aluminum tri(*O*–ethyl phosphonate), in or on cranberries at 0.5 part per million (ppm).

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 fosetyl–Al on cranberries at 0.5 ppm. EPA's assessment of 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 fosetyl–Al are discussed in this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1–SUBCHRONIC, CHRONIC AND OTHER TOXICITY

Study Type	Results
21–Day Dermal Toxicity–Rat	NOAEL =1,500 mg/kg/day highest dose tested (HDT) LOAEL = 1,500 mg/kg/day
3–Month Oral–Rat	NOAEL = 482 mg/kg/day 5,000 ppm LOAEL = 1,250 mg/kg/day 25,000 ppm, based on a slight increase in extramedullary hematopoiesis of the spleen.
3–Month Oral–Dog	NOAEL =250 mg/kg/day 10,000 ppm LOAEL = 1,250 mg/kg/day 50,000 ppm, based on decreased serum potassium levels at the HDT.
Chronic Feeding– 2–Year– Dog	NOAEL = 250 mg/kg/day LOAEL = 500 mg/kg/day, based on testicular degeneration (spermatocytic and/or spermatidic giant cells in the lumen of the seminiferous tubules.
Chronic toxicity/Carcinogenicity–Rat	NOAEL = 400 mg/kg/day LOAEL = 1,500 mg/kg/day, increased urine protein and urinary bladder pathology (tumors).
Carcinogenicity–Mouse	NOAEL (systemic)= 409 mg/kg/day 2,500 ppm LOAEL (systemic)= 1672 mg/kg/day 5,000 ppm, based on slight increases in white blood cells.
Developmental Toxicity–Rabbits	Maternal NOAEL = 125 mg/kg/day LOAEL = 250 mg/kg/day, based on decreased mean body weight Developmental NOAEL = 500 mg/kg/day HDT LOAEL > not established
Developmental Toxicity–Rats	Maternal NOAEL = 1,000 mg/kg/day LOAEL = 4,000 mg/kg/day, based on decreased mean body weights and body weight gain, and increased maternal death Developmental NOAEL = 1,000 mg/kg/day LOAEL = 4,000 mg/kg/day, based on decreased litter and mean fetal body weight, increased resorptions, malformations and skeletal variations.
3–Generation Reproductive Toxicity–Rats	Parental/Systemic NOAEL = 300 mg/kg/day LOAEL = 600 mg/kg/day, based on decreased body weight gains of the F2b generation, and urinary tract changes in adults Reproductive (offspring) NOAEL = 300 mg/kg/day Reproductive (offspring) LOAEL = 600 mg/kg/day, based on decreased litter and pup body weight (Day 8) in both matings of each generation. *In utero* (developmental) NOAEL is > 1,200 mg/kg/day at the HDT.
Gene Mutation–*Salmonella* DNA Repair– *E. Coli* Point Mutation UDS–Hamster Micronucleus Assay Mice Reverse mutation–*S. Cerevisiae* Metabolism–Rat	Non–mutagenic (±) activation. Non–mutagenic and negative (+) activation. Non–mutagenic (±) activation. Non–mutagenic Non–mutagenic First study: (Fosetyl–Al tech.): rapidly metabolized to give mainly carbon dioxide (60%) recovered from exhaled air. About 26% was excreted in the urine containing a larger mount of the metabolite phosphite (phosphorus acid). Only 3–4% was in the feces as the phosphite metabolite. Second study: (Phosphorous acid phosphite metabolite): mainly excreted in the urine (59–65%) and feces (30–32%).

B. Toxicological Endpoints

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

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

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

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of

occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non–linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer}= point of departure/exposures) is calculated.

TABLE 2–SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR FOSETYL–AL FOR USE IN HUMAN RISK ASSESSMENT

Exposure scenario	Dose used in risk assessment, UF	FQPA SF* and level of concern for risk assessment	Study and toxicological effects
Acute Dietary	None	None	None
Chronic Dietary (Non–Cancer)	NOAEL=250 mg/kg/day UF=100 Chronic RfD=2.5 mg/kg/day	FQPA SF= 1x cPAD = chronic RfD/FQPA SF= 2.5 mg/kg/day	2–Year Chronic in Dogs. Based on testicular degeneration (spermatocytic and or spermatidic giant cells in the lumen of the seminiferous tubules) in 2/6 males.
Short–Term Dermal (1 to 7 days) (Residential)	None	None	21–Day dermal in the Rat. No dermal or systemic toxicity was seen at the Limit–Dose following repeated dermal applications to Rats.
Intermediate–Term Dermal (1 week to several months) (Residential)	None	None	21–Day dermal in the Rat. No dermal or systemic toxicity was seen at the Limit–Dose following repeated dermal applications to Rats.
Long–Term Dermal (several months to lifetime) (Residential)	dermal (or oral) study NOAEL= 250 mg/kg/day (dermal absorption rate 17%)	None	2–Year Chronic in Dogs. Based on testicular degeneration (spermatocytic and or spermatidic giant cells in the lumen of the seminiferous tubules) in 2/6 males.
Inhalation (Any time period) (Residential)	inhalation (or oral) study NOAEL= 250 mg/kg/day	None	2–Year Chronic in Dogs. Since the dose identified is from an oral study (chronic dog), route–to–route extrapolation (CCC) should be followed based on use and application rate.
Cancer (oral, dermal, inhalation)	Fosetyl–Al is *unlikely* to pose a carcinogenic hazard to humans. The RFD approach is used for quantification of human risk which is identical to the chronic assessment.	None	

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.415) for the residues of fosetyl–Al, in or on a variety of raw agricultural commodities (RACs) with tolerances ranging from 0.1 ppm for asparagus, caneberries, ginseng, and pineapples to 100 ppm for leafy vegetables (excluding Brassica). Other significant registrations include Brassica leafy vegetables, citrus, cucurbits, strawberries, and tomatoes. In addition, a timelimited tolerance is currently in effect for blueberries (40 ppm) in conjunction with an emergency exemption under section 18 of FIFRA. Risk assessments were conducted by EPA to assess dietary exposures from fosetyl–Al in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a fooduse pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. A toxicological endpoint for acute dietary toxicity was not selected. Therefore, a risk assessment for dietary food exposure was not conducted.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1991 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The cPAD used for the chronic dietary analysis was 2.5 mg/kg/day. As the 10X safety factor was removed, the cPAD is equal to the RfD.

Dietary exposure for various subgroups of the U.S. population was estimated through the use of the (DEEM™) software. As the risk estimate was low for even the most highly exposed subpopulation, no anticipated residues were used. EPA assumed 100% crop treated and tolerance level residues for all crops with tolerances as well as for the crops which are being evaluated in this action (i.e., cranberries).

iii. *Cancer*. Fosetyl–Al is unlikely to pose a carcinogenic hazard to humans. Therefore, a cancer risk assessment was not conducted.

2. *Dietary exposure from drinking water*. Fosetyl–Al is not expected to reach ground or surface water under most conditions. If it does reach surface water, it is expected to degrade rapidly. In ground water, it could persist because of potentially low microbial content. Biodegradation is the only apparent means of fosetyl–Al dissipation. Fosetyl–Al rapidly degrades in both aerobic and anaerobic soil to degradates that are widespread in nature (Al^{+3}, phosphate, and ethanol). Under almost all uses, the degradation is expected to be so rapid that fosetyl–Al will not have time to move in soil, despite being highly soluble in water (120 g/L) and potentially mobile in soil. As it is stable to abiotic hydrolysis, fosetyl–Al could persist in pristine receiving waters with low microbial content.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for fosetyl–Al in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling

taking into account data on the physical characteristics of fosetyl–Al.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI–GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening–level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high–end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a % crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to fosetyl–Al they are further discussed in the aggregate risk sections in Unit III. E. of this preamble.

Based on the GENEEC and SCI–GROW2 models the estimated EECs of fosetyl–Al for chronic exposures are estimated to be 9.0 ppb for surface water and 0.00038 ppb for ground water. The chronic GENEEC value is adjusted (divided) by a factor of three when comparing the EEC for surface water to nonacute DWLOCs. This results in a chronic exposure estimate for surface water at 3 ppb.

3. *From non–dietary exposure*. The term ''residential exposure'' is used in this document to refer to non–occupational, non–dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Fosetyl–Al is currently registered for use on the following residential non–dietary sites: lawn, turf, and ornamental plants. The risk assessment was not conducted using the following residential exposure assumptions: Under the brand names CHIPO® Aliette WDG and Aliette® HG. CHIPO® Aliette WDG, the above uses are sold to professional applicators only which includes lawn care operators (LCO). For this reason, all residential uses of CHIPO® Aliette WDG are applied by the LCO. The use of Fosetyl–Al directly by the homeowner constitutes a minor use of the product since only small quantities of Aliette® HG are sold in the market. Short–term and intermediate–term exposures may occur for residential handlers and for post–application activities. Because the EPA did not select applicable short–term and intermediate–term dermal endpoints, a dermal risk assessment is not required. Long–term or chronic dermal exposure is not expected for residential uses.

In addition, EPA did not recommend a risk assessment for incidental hand–to–mouth ingestion by toddlers. While incidental ingestion of residues by toddlers may occur, no acute RfD was identified. Risk from intermediate–term incidental ingestion by toddlers is assessed by comparing exposure to the NOAEL from an oral study selected for either short or intermediate–term dermal or inhalation risk assessment. However, EPA reviews indicated that incidental hand–to–mouth ingestion is not a concern because the chronic oral endpoint (testicular degeneration) is unlikely to be relevant to toddlers and chronic oral exposure because fosetyl–Al has a relatively short half–life. EPA does not believe that the criteria for a quantitative risk has been met, therefore, no assessment of incidental ingestion was conducted.

Inhalation risk for non–occupational (e.g., residential) handlers is possible from mixing, loading and applying fosetyl–Al to turf using a lowpressure handwand. A risk assessment was conducted which assumes an application rate of 0.42 lb/ai per 1,000 ft^2 and 10,000 ft^2 area treated per day. The unit exposure was calculated at 0.03 (µg/lb/ai) with an absorption factor of 100% and a body weight of 70 kg. The daily dose, which is equal to the application rate x area treated x unit exposure x absorption factor /body weight, is 0.0018 mg/kg/day. The short–and intermediate–term MOE equal to the short–term and intermediate–term NOAEL/ daily dose is 1.4 million for this activity, and is below EPA's level of concern for nonoccupational inhalation risk.

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

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children*—i. *In general*. 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 on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Pre–natal and post–natal sensitivity*. A three generation reproduction study in rats and developmental toxicity studies in rats and rabbits did not indicate any concern for pre–natal or post–natal effects in

offspring or for reproductive effects. Therefore, there was no evidence of increased sensitivity due to pre–natal or post–natal exposure to fosetyl–Al.

iii. *Conclusion*. There is a complete toxicity data base for fosetyl–Al and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The FQPA Safety Factor Committee determined that the 10X factor should be removed from fosetyl–Al for several reasons, including the facts that the toxicology data base is complete and there is no indication of increased susceptibility of rat or rabbit fetuses to *in utero* and/or post–natal exposure in the developmental and reproductive toxicity studies.

E. Aggregate Risks and Determination of Safety

1. *Acute risk*. Acute aggregate risk is based upon the estimated risks from the combined exposures of food and drinking water sources. The EPA did not recommend an acute dietary endpoint for fosetyl–Al, therefore no acute aggregate risk assessment was conducted, and there is no expectation of acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fosetyl–Al from food will utilize 3.1% of the cPAD for the U.S. population, 2.7% of the cPAD for females (13–50) years, 6.3% of the cPAD for children 1–6 years old, and 4.2% of the cPAD for Non–Hispanic (other than black or white). Based on the use pattern, chronic residential exposure to residues of the fosetyl–Al is not expected. In addition, there is potential for chronic dietary exposure to fosetyl–Al in drinking water. After calculating the DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

TABLE 3. SUMMARY OF DWLOC CALCULATIONS FOR FOSETYL–AL FOR AGGREGATE RISK

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	2.5	3.1	3	0.00038	84,000
Females (13–50 years)	2.5	2.7	3	0.00038	72,000
Children (1–6 years)	2.5	6.3	3	0.00038	23,000
Non–Hispanic (other than black or white)	2.5	4.2	3	0.00038	84,000

3. *Short–term risk*. Short–term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Though residential exposure could occur with the use of fosetyl–Al, no toxicological effects have been identified for short–term toxicity. Therefore, the aggregate risk do not exceed the Agency's level of concern.

4. *Intermediate–term risk*. Intermediate–term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Though residential exposure could occur with the use of fosetyl–Al, no toxicological effects have been identified for intermediate–term toxicity. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Fosetyl–Al is classified non–carcinogenic and is unlikely to pose a carcinogenic hazard to humans. Therefore, no cancer aggregate exposure assessment was done.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

A detailed description of Rhone–Poulenc's ''Method of Analysis for Fosetyl–Al Residues in Citrus,'' was provided. This procedure is identical to that described in the Pesticide Analytical Manual, Volume II (PAM II). The studies reported in the subject petition validate the method on cranberries fortified at 0.05 ppm, 0.5 ppm and 5.0 ppm. The recoveries ranged from 70 to 91%. The limit of quantitation (LOQ) was reported at 0.05 ppm. EPA concludes that the available GC/FPD–P methodology (PAM II) is adequate for enforcing tolerances and collecting residue data on fosetyl–Al residues in/on cranberries.

B. International Residue Limits

There are no Codex, Canadian, or Mexican international residue limits established for fosetyl–Al; therefore, the magnitude of the residue is not of concern for this action.

V. Conclusion

Therefore, the tolerance is established for residues of fosetyl–Al, aluminum tris(*O*–ethyl phosphonate), in or on cranberries at 0.5 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–301032 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 October 17, 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 (1,900), Environmental Protection Agency, 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, 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, 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–301032, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. 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 LowIncome 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

requirednformation 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 record keeping requirements.

Dated:August 3, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.415 is amended by adding the commodity ''cranberry'' to the table in paragraph (a) to read as follows:

§ 180.415 Aluminum tris (O–ethylphosphonate); tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million	Expiration/Revocation Date
* * * * *		
Cranberry	0.5	None
* * * * *		

* * * * *

[FR Doc. 00–21081 Filed 8–17–00; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301037; FRL–6737–6]

RIN 2070–AB78

Acibenzolar-S-Methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of acibenzolar-*S*-methyl in or on bananas; Brassica (cole) leafy vegetables; fruiting vegetables; tomato, paste; leafy vegetables (except spinach); and spinach. Novartis Crop Protection, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective August 18, 2000. Objections and requests for hearings, identified by docket control number OPP–301037 must be received by EPA on or before October 17, 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–301037 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Daniel Kenny, Acting PM–22, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–7546; and e-mail address: kenny.dan@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	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,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2.*In person*. The Agency has established an official record for this action under docket control number OPP–301037. 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 February 18, 1999 (64 FR 8102) (FRL–6061–4) and the**Federal Register** of February 4, 2000 (65 FR 5639) (FRL–6398–9), EPA issued notices pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of pesticide petitions (PP) for tolerance by Novartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. These notices included summaries of the petitions prepared by Novartis Crop Protection, Inc., the registrant. There were no comments received in response to the notices of filing.

The petitions requested that 40 CFR part 180 be amended by establishing tolerances for residues of the fungicide acibenzolar-*S*-methyl, benzo(1,2,3)thiadiazole-7-carbothioic acid-*S*-methyl ester, in or on bananas at 0.1 part per million (ppm), Brassica (cole) leafy vegetables at 1.0 ppm, fruiting vegetables at 1.0 ppm, leafy vegetables (except spinach) at 0.25 ppm and spinach at 1.0 ppm. Agency review of data submitted in support of the petitions indicated that a separate tolerance of 3.0 ppm for tomato, paste should also be established.

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 tolerances for residues of acibenzolar-*S*-methyl on bananas at 0.1 ppm; Brassica (cole) leafy vegetables at 1.0 ppm; fruiting vegetables at 1.0 ppm; tomato, paste at 3.0 ppm; leafy vegetables (except spinach) at 0.25 ppm; and spinach at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances 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 acibenzolar-*S*-methyl are discussed in this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC AND OTHER TOXICITY

Guideline No./Study Type	Results
870.3100 90–Day oral toxicity rats	NOAEL: Males:126 mg/kg/day; Females: 131 mg/kg/day LOAEL: Males = 516 mg/kg/day; Females = 554 mg/kg/day based on decreased mean body weights, decreased food consumption and efficiency, and increased liver and spleen weights with correlates of glycogen deposition and hemosiderosis for the liver and spleen, respectively.
870.3150 90–Day oral toxicity dogs	NOAEL = 50 mg/kg/day LOAEL = 200 mg/kg/day based on regenerative hemolytic anemia.
870.3200 21/28–Day dermal toxicity rats	NOAEL = 1,000 mg/kg/day LOAEL = not identified
870.3700a Prenatal developmental rats	Maternal NOAEL = 200 mg/kg/day; LOAEL = 400 mg/kg/day based on hemorrhagic perineal discharge. Developmental NOAEL = not identified (<10 mg/kg/day) LOAEL = 10 mg/kg/day (lowest dose tested) based on umbilical hernia.
870.3700b Prenatal developmental rabbits	Maternal NOAEL = 50 mg/kg/day LOAEL = 300 mg/kg/day based on mortality, clinical signs of toxicity, decreased maternal body weight and food consumption. Developmental NOAEL = 300 mg/kg/day LOAEL = 600 mg/kg/day based on a marginal increase in vertebral anomalies.
870.3800 Reproduction and fertility effects rats	Parental/Systemic NOAEL = 11–31 mg/kg/day LOAEL = 105–288 mg/kg/day based on increased weights and hemosiderosis of the spleen. Reproductive NOAEL = 223–604 mg/kg/day LOAEL >223–604 mg/kg/day based on no effects. Offspring NOAEL = 11–31 mg/kg/day LOAEL = 105–288 mg/kg/day based on reduced pup body weight gains and lower pup body weights during lactation.

TABLE 1.—SUBCHRONIC, CHRONIC AND OTHER TOXICITY—Continued

Guideline No./Study Type	Results
870.4100a Chronic toxicity rats	NOAEL = Males: 96.9 mg/kg/day; Females: 111 mg/kg/day LOAEL = Males: 312 mg/kg/day; Females: 388 mg/kg/day based on decreased body weight, body weight gain and food efficiency, mild hemolytic anemia, and increased incidence of alveolar foam cells (females only).
870.4100b Chronic toxicity dogs	NOAEL = 25 mg/kg/day LOAEL = 200 mg/kg/day based on effects consistent with hemolytic anemia, including hematological effects, hemosiderosis of the liver and spleen, extramedullary hematopoiesis of the spleen, and increased liver weights.
870.4200a Carcinogenicity rats	NOAEL = Males: 96.9 mg/kg/day; Females: 111 mg/kg/day LOAEL = Males: 312 mg/kg/day; Females: 388 mg/kg/day based on decreased body weight, body weight gain and food efficiency, mild hemolytic anemia, and increased incidence of alveolar foam cells (females only). No evidence of carcinogenicity
870.4200b Carcinogenicity mice	NOAEL = Males:11.1 mg/kg/day; Females: 10.8 mg/kg/day LOAEL = Males: 237 mg/kg/day; Females: 234 mg/kg/day based on mild hemolytic anemia and hemosiderosis of the liver, spleen, and bone marrow, and extramedullary hematopoiesis of the spleen. No evidence of carcinogenicity
870.5100 Bacterial reverse mutation assay (Ames test)	Negative with and without S–9 activation at 5000 μg/plate and less.
870.5100 Bacterial reverse mutation assay (Ames test) Test Material: CGA–362020 (isomer of acibenzolar-*S*-methyl)	Positive in *S. typhimurium* strain TA1537 at 277.8 μg/plate and higher in the absence of S–9. Negative with S–9 activation at 5000 μg/plate and less.
870.5100 Bacterial reverse mutation assay (Ames test) Test Material: NOA–419191 (by-product of acibenzolar-*S*-methyl)	Negative with or without S–9 activation at 5000 μg/plate and less
870.5100 Bacterial reverse mutation assay (Ames test) Test Material: CGA–323060 (plant metabolite of acibenzolar-*S*-methyl)	Negative with or without S–9 activation at 5000 μg/plate and less
870.5300 *In vitro* mammalian gene mutation assay	Negative with S–9 activation up to 1000 μg/ml. Negative without S–9 activation up to 100 μg/ml. Compound tested to cytotoxic concentrations.
870.5375 *In vitro* mammalian chromosome aberration (CHO cells)	Suggestive of clastogenicity in the absence of S–9 activation at 30 and 60 μg/mL at the 18–hour cell harvest time; effect observed only in the presence of cytotoxicity. Increase in polyploid cells at 30 and 60 μg/mL at the 42 hour harvest time both with and without S– 9. Evidence of cell cycle arresting activity at G2.
870.5395 Mammalian erythrocyte micronucleus test	Negative at 16, 24, and 48, hour sacrifices.
870.5550 UDS in primary rat hepatocytes	Negative at 500 μg/ml and less.
870.7485 Metabolism and pharmacokinetics rats	Following oral treatment of rats, acibenzolar-*S*-methyl was rapidly and nearly completely (>90% of administered dose) absorbed from the gastrointestinal tract into the general circulation. The majority (88–95%) of the administered dose was excreted in the urine within the first 48 hours. The major metabolite (79–92%) in the urine was the carboxylic acid derivative of the parent.
Special studies: 28–Day dietary rats	NOAEL = M: 403 mg/kg/day; F: 376 mg/kg/day LOAEL = M: 1070 mg/kg/day; F: 1,000 mg/kg/day based on decreased mean body weights, decreased liver weights, altered hematology parameters accompanied by increased spleen weights.
28–Day oral gavage rats	NOAEL = 100 mg/kg/day LOAEL = 800 mg/kg/day based on decreased body weights, and decreased hemoglobin-related parameters accompanied by hemosiderosis of the spleen, increased liver and spleen weights, and decreased thymus weights.
28–Day oral capsule dogs	NOAEL = 50 mg/kg/day LOAEL = 250 mg/kg/day based on decreased body weight, decreased hemoglobin-related parameters, hepatic and splenic hemosiderosis.

TABLE 1.—SUBCHRONIC, CHRONIC AND OTHER TOXICITY—Continued

Guideline No./Study Type	Results
90–Day Dietary mice	NOAEL = M: 30.6 mg/kg/day; F: 47.4 mg/kg/day;
	LOAEL = M: 152 mg/kg/day; F: 220 mg/kg/day based on decreased mean body weights and body weight gain in males, increased spleen weights and splenic histopathology in both sexes.
Special Developmental toxicity rats	Maternal and developmental NOAELS and LOAELS could not be identified by this protocol. The most pronounced maternal and developmental toxicity occurred when dams were treated on GD 6–15.
Special Developmental toxicity rats	Maternal and developmental NOAELS and LOAELS could not be identified by this protocol. The most pronounced maternal and developmental toxicity occurred when dams were treated on GD 6–7 and 8–9.
Dermal developmental toxicity rats	Maternal NOAEL ≥500 mg/kg/day LOAEL >500 mg/kg/day based on no effects. Developmental NOAEL ≥500 mg/kg/day LOAEL >500 mg/kg/day based on no effects.
Range-finding 1-generation reproduction rats	Parental/Systemic NOAEL = 209 mg/kg/day LOAEL = 410 mg/kg/day based on decreased body weight gain and food consumption in females. Reproductive NOAEL = 410 mg/kg/day LOAEL = 728 mg/kg/day based on total resorptions in all dams. Offspring NOAEL = 209 mg/kg/day LOAEL = 410 mg/kg/day based on reduced pup body weight gains and lower pup body weights during lactation.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences. No NOAEL for developmental toxicity was observed in the rat developmental study for acibenzolar-*S*-methyl. Because no NOAEL was observed, an additional 3X uncertainty factor is being applied to the 100X uncertainty factor to account for intra- and inter-species variability, resulting in a 300X UF for toxicological endpoints derived from this study.

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

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

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

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR ACIBENZOLAR-S-METHYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF[1] and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary females 13–50 years of age.	LOAEL = 10 mg/kg/day UF = 300 Acute RfD = 0.033 mg/kg/day	FQPA SF = 10; aPAD = acute RfD ÷ FQPA SF = 0.0033 mg/kg/day	Developmental toxicity - rats; LOAEL = 10 mg/kg/day based on increased incidence of rare malformations (umbilical hernias).
Chronic Dietary females 13–50 years of age.	LOAEL = 10 mg/kg/day UF = 300 Acute RfD = 0.033 mg/kg/day	FQPA SF = 10 aPAD = acute RfD ÷ FQPA SF = 0.0033 mg/kg/day	Developmental toxicity - rats; LOAEL = 10 mg/kg/day based on increased incidence of rare malformations (umbilical hernias).

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR ACIBENZOLAR-S-METHYL FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF[1] and Level of Concern for Risk Assessment	Study and Toxicological Effects
Chronic Dietary all other populations, including infants and children.	NOAEL = 10.8 mg/kg/day UF = 100; Chronic RfD = 0.11 mg/kg/day	FQPA SF = 3; cPAD = chronic RfD ÷ FQPA SF = 0.0367 mg/kg/day	Carcinogenicity - mice; LOAEL = Females = 234 mg/kg/day based on mild hemolytic anemia and hemosiderosis of the liver, spleen, and bone marrow, and extramedullary hematopoiesis of the spleen.

[1] The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* No tolerances have previously been established for acibenzolar-*S*-methyl. Risk assessments were conducted by EPA to assess dietary exposures from acibenzolar-*S*-methyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. After a Tier I acute dietary analysis based on tolerance level residues and assuming 100 percent crop treated resulted in risk estimates that were unacceptably high, a probabilistic (i.e., Monte Carlo) acute dietary exposure assessment was performed using the distribution of residues observed in the crop field trials and projected percent market share information (leafy vegetables,16%; fruiting vegetables 14%; brassica vegetables (2%). The refined analysis estimated acute dietary exposure of females, 13–50 years old, to acibenzolar-*S*-methyl at the 99.9th percentile of exposure.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: that residues would be present in or on treated crops at tolerance levels and that 100% of crops would be treated.

iii. *Anticipated residue and percent crop treated information.* 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 percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information as follows:

A probabilistic (i.e., Monte Carlo) acute dietary risk assessment for acibenzolar-*S*-methyl was based on the following PCT projections: leafy vegetables (16%); fruiting vegetables (14%); brassica vegetables (2%).

The Agency believes that the three conditions previously discussed have been met. With respect to Condition 1, EPA finds that the PCT information described above for acibenzolar-*S*-methyl on leafy vegetables, fruiting vegetables and brassica vegetables is reliable and has a valid basis. The PCT information is based on reliable estimates of the potential market for acibenzolar-*S*-methyl and the petitioner's estimate of the market share it expects to capture. Based on available information, including the petitioner's research and experience in these markets, information on other registered pesticides, and prevalence of target weeds, EPA believes the petitioner's estimates do not underestimate the percent of these crops that may be treated. 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 acibenzolar-*S*-methyl may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for acibenzolar-*S*-methyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates

are made by reliance on simulation or modeling taking into account data on the physical characteristics of acibenzolar-*S*-methyl.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact that processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to acibenzolar-*S*-methyl they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of acibenzolar-*S*-methyl in surface water and ground water for acute exposures are estimated to be 0.64 parts per billion (ppb) for surface water and negligible for ground water. The EECs for chronic exposures are estimated to be 0.02 ppb for surface water and negligible for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Acibenzolar-*S*-methyl is not registered for use on any sites that would result in residential exposure.

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 acibenzolar-*S*-methyl 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, acibenzolar-*S*-methyl 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 acibenzolar-*S*-methyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children*—i. *In general*. 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 on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA's risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity*. The Agency concluded that there is concern for the increased susceptibility of infants and children to exposure to acibenzolar-*S*-methyl based on the developmental toxicity study in rats where treatment-related developmental malformations, anomalies and variations were observed at doses equal to or below the NOAEL for maternal toxicity.

iii. *Conclusion*. The toxicology database for Acibenzolar-*S*-Methyl is incomplete. Subchronic neurotoxicity, developmental neurotoxicity and an additional mutagenicity study (Ames study) are required. The Agency concluded that the FQPA Safety Factor be retained at 10X based on (1) a quantitative increase in susceptibility of fetuses (compared to dams) in the rat developmental toxicity study (developmental malformations occurred at a dose level which was considerably below the NOAEL for maternal toxicity); (2) a concern that the treatment-related developmental malformations (umbilical hernia) observed in rat fetuses occurred at the lowest dose tested (NOAEL was not established) in the rat developmental toxicity study; (3) the requirement for a developmental neurotoxicity study in rats based on the occurrence of treatment-related effects in nervous system tissues in the rat developmental toxicity study; and (4) the potential for the requested uses of acibenzolar-*S*-methyl to result in acute and chronic dietary exposure. When assessing acute and chronic dietary exposures, the Agency concluded that the FQPA safety factor should be retained at 10X for the female, 13–50 years old, population subgroup (the only population subgroup of concern for acute exposures). When assessing chronic dietary exposure, however, the Committee concluded that the safety factor can be reduced to 3X for the general population, including infants and children (with the exception of the aforementioned female 13–50 population subgroup) since there is no concern for increased susceptibility due to*in utero* exposure for persons other than females 13–50, but there still remains a data gap for a developmental neurotoxicity study in rats.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking

water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

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

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure (at the 99.9th percentile of exposure) from food to acibenzolar-*S*-methyl will occupy 87% of the aPAD for females 13 years and older, the only population subgroup of concern for acute dietary exposure (i.e., no significant acute effects relevant to other subgroups were identified in acute toxicity studies for acibenzolar-*S*-methyl). In addition, there is potential for acute dietary exposure to acibenzolar-*S*-methyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO ACIBENZOLAR-S-METHYL

Population Subgroup	a PAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females 13–50 years	0.0033	87	0.64	Negligible	12

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to acibenzolar-*S*-methyl from food will utilize 6% of the cPAD for the U.S. population, 52% of the cPAD for females 13 to 50 years old, 3% of the cPAD for infants less than 1 year old and 11% of the cPAD for children 1 to 6 years old, the subgroup of children with the highest estimated food exposure to acibenzolar-*S*-methyl. There are no residential uses for acibenzolar-*S*-methyl that result in chronic residential exposure to acibenzolar-*S*-methyl. In addition, there is potential for chronic dietary exposure to acibenzolar-*S*-methyl in drinking water. After calculating the DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO ACIBENZOLAR-S-METHYL

Population Subgroup	cPAD mg/kg/ day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.0367	6	0.02	negligible	1200
All Infants 1 year	0.0367	3	0.02	negligible	360
Children 1–6 years	0.0367	11	0.02	negligible	320
Females 13–50 years	0. 0033	52	0.02	negligible	50

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Acibenzolar-*S*-methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Acibenzolar-*S*-methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed 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 the general population, and to infants and children from aggregate exposure to acibenzolar-*S*-methyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The petitioner has proposed a residue analytical method for tolerance

enforcement that uses liquid chromatography with UV detection (HPLC-UV). This method is currently being validated by the Analytical Chemistry Branch laboratories, BEAD (7503C), Office of Pesticide Programs. Upon successful completion of the EPA validation and the granting of this registration the method will be forwarded to FDA for publication in a future revision of the Pesticide Analytical Manual, Vol-II (PAM-II). Prior to publication in PAM-II and upon request, the method will be available prior to the harvest season from the Analytical Chemistry Branch (ACB), BEAD (7503C), Environmental Science Center, 701 Mapes Road, Ft George G. Meade, MD 20755–5350; contact Francis D. Griffith, Jr, telephone (410) 305–2905, e-mail griffith.francis@epa.gov. The analytical standards for this method are also available from the EPA National Pesticide Standard Repository at the same location.

B. International Residue Limits

There are no maximum residue limits for acibenzolar-*S*-methyl that have been established by Codex or in Canada or Mexico; therefore, no compatibility issues exist with Codex in regard to the proposed U.S. tolerances discussed in this review.

C. Conditions

The registration of acibenzolar-*S*-methyl will be conditioned upon submission of the following toxicology studies: Developmental neurotoxicity study in rats; subchronic neurotoxicity study in rats; and an additional mutagenicity study (Ames test).

V. Conclusion

Therefore, tolerances are established for residues of acibenzolar-*S*-methyl, benzo(1,2,3)thiadiazole-7-carbothioic acid-*S*-methyl ester, in or on bananas at 0.1 ppm; Brassica (cole) leafy vegetables at 1.0 ppm; fruiting vegetables at 1.0 ppm; tomato, paste at 3.0 ppm; leafy vegetables (except spinach) at 0.25 ppm; and spinach 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–301037 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 October 17, 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, 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, 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, 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–301037, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. 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: August 9, 2000.

Joseph J. Merenda

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 180.561 is added to read as follows:

§ 180.561 Acibenzolar-S-methyl; tolerances for residues.

(a) *General.* Tolerances are established for residues of acibenzolar-*S*-methyl, benzo(1,2,3)thiadiazole-7-carbothioic acid-*S*-methyl ester, in or on the following raw agricultural commodities:

Commodity	Parts per million
Bananas[1]	0.1
Brassica (cole) leafy vegetables	1.0
Fruiting vegetables	1.0
Leafy vegetables	0.25
Spinach	1.0
Tomato, paste	3.0

[1] There are no United States registrations for bananas.

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

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

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

[FR Doc. 00–21080 Filed 8–17–00; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3500

[WO–320–1990–01–24 A]

RIN 1004–AC49

Leasing of Solid Minerals Other Than Coal and Oil Shale

AGENCY: Bureau of Land Management, Interior.

ACTION: Direct final rule.

SUMMARY: On April 28, the Mineral Leasing Act was effectively amended to change the acreage limits on a Bureau of Land Management (BLM) customer who leases public lands and minerals to produce sodium. The new law increased the maximum number of acres a person can lease in any one state from 15,360 acres in any one state to 30,720 acres. This rule revises the regulations of the BLM to reflect the new law.

DATES: This direct final rule is effective on October 17, 2000 without further notice, unless BLM receives adverse comment by September 18, 2000. If adverse comment is received, BLM will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You may mail comments to Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, D.C. 20240. You may also hand-deliver comments to BLM at Room 401, 1620 L Street, NW, Washington, D.C. For information about filing comments electronically, see the **SUPPLEMENTARY**

INFORMATION section under ''Electronic access and filing address.''

FOR FURTHER INFORMATION CONTACT: Philip Allard, (202) 452–5195, or Chris Fontecchio, (202) 452–5012.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures and Information
II. Background
III. Discussion of the Rule
IV. Procedural Matters

I. Public Comment Procedures

Electronic Access and Filing Address

You may view an electronic version of this direct final rule at BLM's Internet home page: www.blm.gov. You may also comment via the Internet to: *WOComment@blm.gov.* Please also include ''Attention: AC–49'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030.

Written Comments

Written comments on the direct final rule should be specific, should be confined to issues pertinent to the rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the rule which the commenter is addressing. BLM may not necessarily consider or include in the Administrative Record comments which 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, street addresses, and other contact information of respondents, will be available for public review at BLM's offices at 1620 L Street, NW., Washington, DC, during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as: Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

II. Background

On April 13, 2000, the United States Senate passed H.R. 3063, which was then signed into law by the President on April 28, 2000, as Public Law 106–191. This law amended the Mineral Leasing Act to increase the maximum acreage of Federal sodium leases that a person can lease in any one state from 15,360 acres to 30,720, in cases where BLM finds it is necessary to facilitate an economical mine. The acreage limit for sodium leases in all other cases remains 5,120 acres. According to the bill, existing leases for sodium (or trona) in southwestern Wyoming cover the largest deposits anywhere on public lands, and the acreage limitations are causing difficulty for three of the four major producers operating there. As Congress points out, the present acreage limitation of 15,360 acres has been in place since 1948, while acreage limits for other minerals have more recently been increased to much larger limits. For example, the single-state lease acreage limit for coal is 46,080 acres; 96,000 acres for potassium; and 246,080 acres for oil and gas.

Congress found that the increase in acreage to 30,720 is warranted by modern mine technology, changes in industry economics, greater global competition, and the need to conserve the Federal resource. Increased acreage limits will help existing sodium lessees avoid premature closure, make better long-term business decisions about infrastructure investments based on the potential for more available acreage, and otherwise maintain the vitality of the domestic sodium industry.

The primary product of trona mining is soda ash (sodium carbonate), a basic industrial chemical that is used for glass-making and a variety of consumer products, including baking soda, detergents, and pharmaceuticals.

III. Discussion of the Rule

The regulations governing solid mineral leasing for minerals other than coal or oil shale were substantially revised on October 1, 1999 (64 FR 53536). This action was taken to comply with President Clinton's government-wide regulatory reform initiative to eliminate unnecessary regulations, and streamline and rewrite necessary regulations in plain English. Under the previous rule each solid mineral commodity had its own separate regulations, much of which was repeated in each set of regulations. The new rule combined these solid minerals regulations into one set of regulations, streamlined, updated and re-written in plain English, and clarified the responsibilities of interested parties.

The new rule includes a chart at 43 CFR 3503.37 which displays all the acreage limitations for solid mineral leases, including the maximum acreage allowed under a single lease, the maximum acreage a person can lease in a single state, and the maximum acreage held by one person nationwide. Section 3503.38 explains how BLM calculates your acreage to see if it is within the limits. The limits themselves are generally set by statute, particularly by the Mineral Leasing Act.

The passing of Public Law 106–191 means this chart is no longer accurate. It presently reads that the state acreage limit for sodium is 5,120 acres, which may be increased to 15,360 acres in order to facilitate an economic mine. As discussed above, Congress has set the allowable limit at 30,720 acres.

If this rule is adopted, the chart would be revised to show that the state acreage limit for sodium is still 5,120 acres, but it may be increased to 30,720 to facilitate an economic mine. Where a lessee raises economic concerns, BLM could allow them to hold 30,720 acres. The current rule sets that limit at 15,360 acres where the lessee raises economic concerns.

We believe this change accurately captures the intent of Public Law 106–191. Congress has not declared that all operators must be allowed to increase their state holdings to 30,720. Rather, Congress said that where circumstances mean an operator cannot run an economically viable sodium operation on 5,120 acres of Federal leases in a single state, BLM may lease up to 30,720 acres to a single lessee to facilitate an economic mine. Retaining the general limit at 5,120 acres (as opposed to the maximum 30,720 acres) is required by law; Public Law 106–191 only amended the expandable limit in the case of economic concerns. Absent that concern, the limit is still set by law at 5,120 acres. See 30 U.S.C. 184(b)(1).

This rule is a direct final rule. This means, if BLM does not receive any substantive, adverse comments by September 18, 2000, the rule will become effective as a final rule on October 17, 2000 . However, if BLM receives any adverse comments expressing substantive concerns, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect, and we will issue a new proposal with a further comment period.

The Administrative Procedure Act (5 U.S.C. 551 *et seq.*), which governs how Federal agencies promulgate regulations, exempts certain regulations

from the required notice and comment for ''good cause'' (5 U.S.C. 553). Many agencies find that, for noncontroversial rules, the public interest in efficiency satisfies the ''good cause'' exemption. To that end, the former Administrative Conference of the United States (ACUS) encouraged direct final rules as a fair method for making Federal rulemaking actions simpler and more efficient. In situations where an agency does not expect public concern, the agency can shorten the rulemaking process by issuing a rule that will be final unless a negative comment is received during a set period following publication. Thus, if the agency is wrong and there is public concern over the proposed action, the agency can then go through the more thorough process of proposing a rule and seeking public input. For more information, see ACUS Recommendation 95–4, Procedures for Noncontroversial and Expedited Rulemaking, published in the **Federal Register** at 60 FR 43108 (Aug. 18, 1995).

We have chosen the direct final rule approach because Public Law 106–191 requires us to consider allowing persons to lease greater acres for sodium in a single state, and it is important to our customers that our regulations accurately reflect the law. Thus, we do not expect any opposition to this rule. As discussed above, Congress has already increased the acreage limitation, and BLM is already bound by law to consider leasing larger acreage to address the economic concerns in southwestern Wyoming and elsewhere. The direct final rule format is simply a more efficient way to accomplish this purpose.

IV. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that this direct final rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the Environmental Protection Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). As discussed above, this rule would implement a change that has already been made by Congress. Therefore, a detailed statement under NEPA is not required. We have placed the EA and the Finding of No Significant Impact (FONSI) on file in our Administrative Record at the address specified in the **ADDRESSES** section. The public may review these documents, and anyone wishing to submit comments in response to the EA and FONSI may do so in accordance with the Written Comments section above.

Executive Order 12866, Regulatory Planning and Review

This direct final rule is not a significant regulatory action and is not subject to review by Office of Management and Budget under Executive Order 12866. Because this rule only changes our regulations to accurately reflect what the law already requires BLM to do, this rule itself will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule will not create any inconsistency or otherwise interfere with an action taken or planned by another agency. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor does it raise novel legal or policy issues.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading.)

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the rule? How could this description be more helpful in making the rule easier to understand? Please send any comments you have on the clarity of the regulations to the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This rule, as described above, merely implements a statutory change to the existing regulations which apply to leasing Federal sodium resources, and thus the rule change itself will not have a significant impact on any small entities. Rather, it is the legislation which affects these entities. The legislation affects all small entities active in leasing sodium from the Federal government. Those approximately 25 entities currently holding a Federal sodium lease and who qualify as individuals or small businesses may be affected by the legislation. However, this rule makes no substantive change beyond what Congress has already enacted. Therefore, BLM has determined under the RFA that this direct final rule would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This direct final rule is not a ''major rule'' as defined at 5 U.S.C. 804(2). This rule merely implements a change to the state acreage limits that has been amended by Congress. This rule is limited to making BLM's regulations consistent with the law.

Unfunded Mandates Reform Act

This direct final rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor does this direct final rule have a significant or unique effect on State, local, or tribal governments or the private sector. As discussed above, this rule merely changes BLM's sodium leasing regulations to comply with the new law. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

This rule does not represent a government action capable of interfering with constitutionally protected property rights. The rule is limited to changes which reflect Congress's amendment to the acreage a person can lease for sodium in any one state. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings

implications under this Executive Order.

Executive Order 13132, Federalism

This rule 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. The rule is limited to changes which reflect Congress's amendment to the state acreage limits for sodium leases. Therefore, in accordance with Executive Order 13132, BLM has determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on the tribes. Since this rule does not propose significant changes to BLM policy and does not specifically involve Indian reservation lands, we have determined that the government-to-government relationships should remain unaffected.

Author

The principal authors of this rule are Christopher Fontecchio of the Regulatory Affairs Group and Philip Allard of the Solid Minerals Group, Bureau of Land Management, Washington, DC.

List of Subjects in 43 CFR Part 3500

Bonds, Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

Accordingly, BLM is amending 43 CFR part 3500 as set forth below.

1. The authority citation for part 3500 continues to read as follows:

Authority: 5 U.S.C. 552; 30 U.S.C. 189 and 192c; 43 U.S.C. 1733 and 1740; and sec. 402, Reorganization Plan No. 3 of 1946 (5 U.S.C. app.).

2. Revise paragraph (b) in the table in § 3503.37 to read as follows:

§ 3503.37 Is there a limit to the acreage of lands I can hold under permits and leases?

* * * * *

Commodity	Maximum acreage for a permit or lease	Maximum acreage of permits and leases in any one state	Maximum acreage in permits and leases nationwide
* * *	*	*	*
(b)Sodium	2,560 acres	5,120 acres (may be increased to 30,720 acres to facilitate an economic mine).	None.

* * * * *

Dated: August 3, 2000.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 00–21039 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–94–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1693; MM Docket No. 99–293; RM–9720, RM–9721]

Radio Broadcasting Services; Canton and Saranac Lake, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Radio Vermont Classics, LLC, licensee of Station WCVT, Channel 269A, Stowe, VT, substitutes Channel 227A for unoccupied and unapplied-for Channel 269A at Saranac Lake, NY, so that Station WCVT can increase its power to 6 kW. At the request of Radio Power, Inc., licensee of Station WRCD, Canton, NY, this action also substitutes Channel 268C2 for Channel 268A at Canton, NY, and modifies the license of Station WRCD to specify operation on the higher powered channel. Channel 227A can be allotted to Saranac Lake in compliance with the Commission's minimum distance separation requirements, with respect to all domestic allotments, without the imposition of a site restriction, at coordinates 44–19–48 NL; 74–08–00 WL. This allotment will be short-spaced to Station CBM–FM, Channel 228C1, Montreal, Quebec. Channel 268C2 can be allotted to Canton in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, with a site restriction of 31.8 kilometers (19.8 miles) east, at coordinates 44–35–66 NL; 74–46–24 WL. *See* **SUPPLEMENTARY INFORMATION.**

DATES: Effective September 11, 2000.

ADDRESSES: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–293, adopted July 19, 2000, and released July 28, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

This allotment will be short-spaced to Stations CBOF, Channel 271A, Brockville, Ontario, and vacant Channel 270A at Cornwall, Ontario, Canada. Therefore, Canadian concurrence in these allotments, as specially negotiated, short-spaced allotments, has been requested but has not yet been received. However, rather than delay any further the opportunity to file applications for the vacant channel at Saranac Lake, as well as applications to

implement the channel change for Station WRCD at Canton, New York, and increase the Class A facilities of Station WCVT, Stowe, Vermont, we will substitute Channel 227A for Channel 269A at Saranac Lake, and substitute Channel 268C2 for Channel 268A at Canton. If a construction permit is granted prior to the receipt of formal concurrence in the allotments by the Canadian Government, the construction permit will include the following condition: ''Operation with the facilities specified herein is subject to modification, suspension, or termination without the right to hearing, if found by the Commission to be necessary in order to conform to the Canada-United States FM Broadcast Agreement or if objected to by Industry Canada.'' *See* 64 FR 54269, October 6, 1999.

A filing window for Channel 227A at Saranac Lake, NY, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

List of Subjects in 47 CFR part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 268A and adding Channel 268C2 at Canton and removing Channel 269A and adding Channel 227A at Saranac Lake.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–21003 Filed 8–17–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 174, 175, 177, 178, 179 and 180

[Docket No. RSPA–99–6213 (HM–218)]

RIN 2137–AD16

Hazardous Materials; Miscellaneous Amendments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the Hazardous Materials Regulations (HMR) by incorporating miscellaneous changes based on petitions for rulemaking and RSPA initiative. This action reduces regulatory burden on industry where feasible, responds to petitions for rulemaking, and makes other minor adjustments to the regulations to enhance safety and align the HMR with international standards. The intended effect of these regulatory changes is to update, clarify and improve regulatory requirements and provide relief from certain of those requirements where feasible.

DATES: *Effective Date:* The effective date of these amendments is October 1, 2000.

Compliance Date: Compliance with the regulations, as amended herein, is authorized after August 18, 2000.

Incorporation by Reference Date: The incorporation by reference of certain publications listed in these amendments is approved by the Director of the Federal Register as of October 1, 2000.

FOR FURTHER INFORMATION CONTACT: Charles Betts or Diane LaValle, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

Background

This final rule will primarily reduce regulatory burden on industry by incorporating changes into the HMR based on RSPA's own initiative and petitions for rulemaking submitted in accordance with 49 CFR 106.31. This final rule is also consistent with the goals of the President's Regulatory Reinvention Initiative. On March 4, 1995, the President directed Federal agencies to perform an extensive review of all agency regulations and eliminate or revise those requirements that are outdated or in need of reform. In a continuing effort to review the HMR for necessary revisions, RSPA is eliminating, revising, clarifying and relaxing certain regulatory requirements in this final rule. On September 30, 1999, RSPA published a notice of proposed rulemaking (NPRM) under Docket RSPA–99–6213 (HM–218) (64 FR 53166). The NPRM contained information concerning each proposal and invited public comment. Readers should refer to the NPRM for additional background discussion.

RSPA received 22 comments in response to the NPRM. These comments were submitted by representatives of trade associations, hazardous materials consulting firms, chemical manufacturers, and carriers of hazardous materials. The majority of commenters expressed support for various proposals, but several raised concerns about certain provisions in the proposal that are discussed below.

The following is a section-by-section summary of changes and, where applicable, a discussion of comments received.

Section-by-Section Review

Part 107

Section 107.105–107.705

Paragraph (a)(2) is revised to permit a person applying for an exemption or modification of an exemption to include an electronic mail address in the application. RSPA will use this information to transmit official documents to an applicant. This change was not proposed in the notice, is only administrative or procedural, and will be of significant benefit to exemption applicants by expediting the transmission of documents and reducing costs inherent with the handling and mailing of paper copies. This same change is also made to the other exemption and approval application provisions in §§ 107.107(b)(3), 107.109(a)(3), and 107.705(a)(4).

Part 171

Section 171.7

RSPA is updating the incorporation by reference of the American Society of Mechanical Engineers (ASME) Code to the 1998 Edition, without the 1999 Addenda.

One comment received in response to this proposal stated that the 1999 Addenda needs to be adopted in order for the 1998 Code to be used. RSPA disagrees with the commenter. RSPA has latitude in determining whether to fully incorporate, to except certain provisions of a standard, or to impose

more stringent requirements than those contained in a material incorporated by reference, and has done so in the past. The structural integrity requirements for pressure vessels, prescribed in § 178.337–3 of the HMR for cargo tank motor vehicles, provide for the maximum stress value prescribed in Section VIII of the ASME Code or 25 percent of the tensile strength of the material used. The currently referenced 1992 Edition and the new 1998 Edition of the ASME Code, Section VIII, Division I, mandate a safety factor of 4:1. The 1999 Addenda to Section VIII provides for reducing the safety factor to 3.5:1. RSPA does not have sufficient experience data to conclude that this reduced safety factor adequately considers dynamic loads that are normally encountered during transportation conditions. Therefore, any deviation from the currently required 4:1 safety factor must be approved under the terms of a DOT exemption.

Section 171.8

RSPA is revising the definition of ''Aerosol'' by removing the reference to a ''metal'' receptacle. This revision will more closely align the HMR definition with the UN Recommendations with regard to the material of construction for a non-refillable receptacle. Four comments were received to this proposal expressing agreement with the revision. One commenter stated that RSPA's definition for aerosol does not authorize pure compressed gases, as in the UN Recommendations, and requested that the definition be revised to include the authorization. This request is outside the scope of this rulemaking. Another commenter agreed with the proposed change to the aerosol definition, but stated that it is inconsistent with the change proposed in the NPRM in § 171.11. The revision in § 171.11(a)(14) is made to clarify that aerosols transported in the United States (US) must be in metal packagings if the capacity of the packaging is more than 4 fluid ounces. The revision in § 171.8 is made to authorize aerosols in non-metal containers if the capacity of the packaging is less than 4 fluid ounces.

As provided by § 173.306(a)(1), limited quantities of compressed gases (including aerosols) are authorized in non-specification containers of up to 4 fluid ounce capacity (7.22 cubic inches) each. As provided in § 173.306(a)(3), aerosols may be packaged in metal containers of up to one liter capacity.

RSPA is also revising the definition of ''EX number.'' This change is made to recognize that RSPA assigns EX numbers to track materials approved by the Associate Administrator for Hazardous Materials Safety under the provisions of § 173.56, regardless of whether they are approved under one of the explosives classifications or under a different hazard class.

The definition of ''Placarded car'' is revised to remove reference to a ''FUMIGATION placard.'' As used in the HMR, a railcar containing lading which has been fumigated or is undergoing fumigation is required to display the ''FUMIGANT marking'' shown in § 173.9.

Section 171.11

RSPA is removing paragraph (d)(5), which requires an indication on a shipping paper that a material is a poison. The International Civil Aviation Organization (ICAO) Technical Instructions already require the shipping paper to identify subrisks; therefore, paragraph (d)(5) is unnecessary. RSPA is adding a new paragraph (d)(5) to require that the original approval (EX) number or traceable product code issued to an air bag inflator or seat-belt pretensioner be entered on the shipping paper in association with the basic description, as specified in § 173.166(c). Currently, shipping papers for devices offered under the ICAO Technical Instructions are not required to contain the EX number or product code for an approved inflator or pretensioner. RSPA believes this shipping paper provision should include air bags or seat-belt pretensioners when offered and transported in the US under the authority of international regulations. Devices containing a pressure vessel and transported as Division 2.2 (UN3353) are excluded from this shipping paper notation requirement. In addition, paragraph (d)(14) is revised to clarify that ''Aerosols'' transported in the US under the provisions of the ICAO Technical Instructions must be in metal packagings if the packaging exceeds 7.22 cubic inches (see earlier preamble discussion to § 171.8).

Section 171.12

RSPA is revising paragraph (a) to clarify that the shipping paper documentation required under the International Maritime Dangerous Goods Code (IMDG) or the International Atomic Energy Agency (IAEA) regulations must be written in English as currently required by § 172.201(a)(2). Similar to the change made to § 171.11 discussed earlier in this preamble, RSPA is adding paragraph (b)(19) to require that the approval (EX) number or traceable product code be entered on shipping papers for other than Division 2.2 airbag inflators and seat belt pretensioners that are offered for transportation under the IMDG Code.

Part 172

Section 172.101

Paragraphs (b)(2) and (b)(6) are revised to clarify that proper shipping names denoted with an ''A'' or ''W'' in Column (1), in the Hazardous Materials Table (HMT), may be used to describe hazardous materials transported in any mode when all applicable requirements are met.

RSPA is removing paragraph (c)(8), which is specific to determining a proper shipping description for hazardous substances, as it is redundant with § 172.101(c). One commenter disagreed with this revision, stating that this paragraph provides valuable instruction on how to assign a proper shipping name for a hazardous substance, and is the only place in the HMR that states that the list of Hazardous Substances is provided in Appendix A. RSPA disagrees with this commenter. A hazardous substance is assigned a proper shipping name the same way any other hazardous material is assigned a proper shipping name. Further, the definition of a hazardous substance in § 171.8 refers to Appendix A for the list of hazardous substances. In addition, in this final rule, we are revising a reference to § 172.101(c)(8) in Appendix A to Part 172 to reference § 172.101(c) in its entirety.

A new paragraph (c)(8) is added to allow the word ''liquid'' or ''solid''to be included as part of the proper shipping name when a hazardous material specifically listed by name may, due to differing physical states, be a liquid or solid. This is consistent with existing provisions in the UN Recommendations, the ICAO Technical Instructions and the IMDG Code.

The entry ''Chemical kits *or* First aid kits (*containing hazardous materials*)'' is separated into two individual entries for easier reference. In addition, the wording *''(containing hazardous materials)''* is removed.

The entry '' 1-Chloro-3-Bromopropane'' is changed to read ''1-bromo-3-chloropropane'' to be in accordance with the UN Recommendations.

A new entry *''Fumigated transport vehicle or freight container, see § 173.9''* is added to reference § 173.9 which contains requirements for transporting fumigated lading. This change will facilitate the location of these requirements by readers.

For the entries, ''Polychlorinated biphenyls, liquid'' and ''Polychlorinated

biphenyls, solid,'' UN2315, in Column 1, the symbols ''A, W'' are removed and a new Special Provision 140 is added in Column 7. Special Provision 140 states that the material is only regulated when it meets the defining criteria for a hazardous substance or a marine pollutant. In addition, as requested by a commenter, Special Provision 140 is revised to state that the Column 5 reference is modified to read ''III'' on those occasions when the material is offered for transportation or transported by highway. Two commenters disagreed with removal of the symbols ''A, W'' stating that the ICAO Technical Instructions and the IMDG Code currently regulate Polychlorinated biphenyls (PCBs) in liquid and solid form in any amount and that this inconsistency will cause confusion. RSPA disagrees with these commenters. The ICAO Technical Instructions regulate PCBs only when they are present in a reportable quantity, as stipulated in Special Provision A97 and State Variation US4. The IMDG Code regulates PCBs in all quantities; however, we do not believe that it is necessary to adopt this approach because it will place unnecessary burden on shippers and carriers within the U.S.

For the entry ''Air, compressed,'' Special Provision 78 is added in Column 7 to specify that only mixtures with oxygen concentrations of 23.5 percent or less may be transported under this entry. An OXIDIZER label is not required for mixtures in these concentrations. This aligns the HMR with a recent amendment adopted in the eleventh revised edition of the UN Recommendations. In addition, for the entry ''Rare gases and oxygen mixtures, compressed,'' Special Provision 79 is added to state that this entry may not be used for mixtures meeting the criteria for oxidizing gas in § 171.8. RSPA believes that it is more appropriate to use a generic oxidizing gas entry (*e.g.,* Compressed gas, oxidizing, n.o.s.) when such mixtures meet the criteria of an oxidizing gas.

For the entry, ''Sodium chlorate, aqueous solution,'' PG II, Special Provision ''B6'' is removed. A commenter pointed out that similar entries (Potassium chlorate, aqueous solution and Chlorates, inorganic, aqueous solution) are not assigned this Special Provision. RSPA agrees that Special Provision B6 was mistakenly assigned.

RSPA is revising a number of HMT entries that contain inconsistently applied vessel stowage codes in column 10B. These codes pertain to segregation of Division 2.3 and 6.1 and Class 8 hazardous materials with foodstuffs. These changes align the HMR with Amendment 30 to the IMDG Code.

Appendix A to § 172.101

In Appendix A to § 172.101, in number 3., the reference to § 172.101(c)(8) is revised. This final rule is removing § 172.101(c)(8); therefore, the reference in Appendix A is revised to refer to § 172.101(c) for determining a proper shipping name. In addition, ''Acrolein'' is added to Table 1.—Hazardous Substances Other Than Radionuclides with a reportable quantity of 1 pound (0.454 kg). This entry was inadvertently omitted in the reprinting of the HMR.

Section 172.102

In paragraph (c)(1), a new Special Provision 78 is added to specify that the entry ''Air, compressed'' may not be used to describe compressed air which contains more than 23.5% of oxygen. This change aligns the HMR with a recent amendment adopted in the eleventh revised edition of the UN Recommendations. A new Special Provision 79 is added to specify that the entry ''Rare gases and oxygen mixtures, compressed'' may not be used for gas mixtures that meet the criteria for an oxidizing gas. This change ensures that the correct emergency response information is provided. We are also adding a new Special Provision 140 to the entries ''Polychlorinated biphenyls, liquid'' and ''Polychorinated biphenyls, solid,'' UN 2315 to state that the material is only regulated when it meets the defining criteria for a hazardous substance or marine pollutant and that the material may be assigned packing group III when transported by highway or rail. This change is consistent with international regulations.

In paragraph (c)(5), we are revising Special Provision N10 which pertains to lighters. Currently, approvals for lighters require the approval number to be marked on the package and on the shipping papers. We believe that this requirement should be contained in the HMR. Also, in paragraph (c)(5), we are adding Special Provision N20, which was inadvertently removed in a previous rulemaking. Special Provision N20 authorizes the use of a 5M1 non-bulk multi-wall paper bag and is currently assigned to the entry ''Environmentally hazardous substances, solid, n.o.s.'', in column 7, of the § 172.101 Hazardous Materials Table.

Section 172.201

Paragraph (a)(1)(ii) is revised to clarify that when a reproduced shipping paper identifies hazardous materials entries by highlighting the basic description in a contrasting color, the packing group also must be highlighted. The packing group is identified as a basic description element by § 172.202(a)(4) and (b).

Section 172.204

For consistency with paragraphs (a)(1), (a)(2) and the ICAO Technical Instructions, paragraph (c)(1) is revised to change the word ''packed'' to read ''packaged.'' To reduce costs, a transition period of 10 years is provided for depletion of preprinted shipping papers showing the word ''packed''.

Sections 172.332 and 172.336

In response to a petition for rulemaking from the American Trucking Associations (ATA) [P–1364], RSPA is amending §§ 172.332(a) and 172.336(b) to authorize the use of white square-on-point configurations for display of identification number markings, regardless of whether a placard is required for that material. RSPA agrees with ATA that it is unnecessarily restrictive to prevent the use of identification number markings displayed on square-on-point configurations in conjunction with placards. Commenters brought to our attention that certain section references were inadvertently omitted from § 172.332(a) and the first sentence of § 172.336(b) was not easily understood. RSPA agrees with both commenters and has revised the sections accordingly.

Section 172.504

RSPA is revising the Class 9 table entry to reference § 172.504(f)(9), which provides an exception from displaying a Class 9 placard for domestic transportation. In addition, paragraph (f)(8), regarding the placarding of a material classed as a combustible liquid that also meets the definition of a Class 9, is removed. A new paragraph (f)(8) is added to provide an exception, in domestic transportation, from meeting the requirement to display a POISON INHALATION HAZARD placard on a transport vehicle if it already displays a POISON GAS placard.

Section 172.516

Paragraph (a) is revised to change the wording ''motor vehicle'' to ''transport vehicle'' the second time it appears in the first sentence. This corrects an inaccurate usage of the term ''motor vehicle''. This change clarifies that each placard on a motor vehicle must be clearly visible from the direction it faces, except from the direction of another transport vehicle to which the motor vehicle is coupled.

Section 172.519

Paragraph (b)(3) is revised to clarify that text is required on the DANGEROUS placard. In addition, the paragraph is revised to clarify that text is not required on an OXYGEN placard when the specific identification number is displayed on the placard.

Section 172.604

Paragraph (c)(2) is revised to clarify that hazardous materials transported under the proper shipping name ''Consumer commodity'' do not require emergency response information, regardless of whether the hazard class is ''ORM–D'' as provided by the HMR, or ''9'' as provided by the ICAO Technical Instructions.

Section 172.704

In § 172.704, paragraph (b) is revised to add the reference, ''29 CFR 1910.1200,'' in addition to 29 CFR 1910.120 issued by the Department of Labor's Occupational Safety and Health Administration (OSHA). This change is necessary to clarify that any relevant training received due to OSHA's requirements need not be repeated to meet training requirements in the HMR.

Part 173

Section 173.4

RSPA proposed to revise paragraphs (a)(1)(i), (ii) and (iii) to clarify that the one-gram limit for Division 6.1 material per inner receptacle applies only to materials that are a poison inhalation hazard. One commenter disagreed with this proposal because it has been shipping ethylene oxide, which is a Division 2.3 material, under an approval as provided by § 173.4(c). Ethylene oxide is a poison inhalation hazard material in Hazard Zone D. Adoption of this proposal would restrict transportation of ethylene oxide as a small quantity to 1 gram, even under the terms of an approval. RSPA has considered this comment and believes that a restriction on materials that are Division 6.1, Packing Group I, Hazard Zone A or B only, is necessary. Therefore, the provisions in §§ 173.4(a)(1)(i), (ii) and (iii) are revised to clarify that Division 6.1, Packing Group I, materials in Hazard Zone A and B are restricted to 1 gram. In addition, a note is added to § 173.4(a)(6)(ii) to clarify that the same package need not be subjected to all of the tests specified in § 173.4; another identical package may be used for each test.

Section 173.5

In § 173.5, paragraph (a) is revised to grant an exception from the emergency response information and training requirements in subparts G and H of Part 172, respectively, to Class 2 agricultural products that are transported over local roads between fields of the same farm. Agricultural products other than Class 2 materials are completely excepted from the HMR when transported between fields of the same farm. RSPA believes that this limited relief from emergency response information and training requirements is warranted for Class 2 materials.

Section 173.7

RSPA is adding a new paragraph (e) that incorporates and expands the existing exception in § 173.62(d) for Class 1 explosives owned by the Department of Defense (DOD). Currently, under § 173.62(d), DOD is authorized to ship its Class 1 materials that were packaged prior to January 1, 1990, without regard to the current packaging requirements in Part 178. In addition to this exception, RSPA is excepting these packagings from the current marking and labeling requirements, provided they are marked and labeled in conformance with the requirements of the HMR that were in effect at the time they were originally marked and labeled. This will alleviate the need to re-mark and re-label DOD stockpiled hazardous materials. Because the revised exception applies to marking and labeling of DOD packagings in addition to the Part 178 packaging requirements, RSPA is placing these exceptions in § 173.7 and is removing current paragraph (d) in § 173.62.

Section 173.12

In § 173.12, paragraph (b)(3) is revised to clarify that materials poisonous by inhalation are not authorized in lab packs.

Section 173.13

In § 173.13, paragraph (a) is revised to clarify that use of the CARGO AIRCRAFT ONLY label is required. As discussed in the preamble to Docket HM–222 [May 30,1996; 61 FR 27169], it was RSPA's intention to except use of primary and subsidiary hazard labels only. Hazardous materials transported under the provisions of § 173.13 are not authorized for transportation by passenger-carrying aircraft. When transported without the CARGO AIRCRAFT ONLY label, RSPA believes that some packagings offered for transportation under § 173.13 may inadvertently be placed on a passenger-carrying aircraft in violation of the HMR. This change is consistent with § 172.402(c) regarding display of the CARGO AIRCRAFT ONLY label.

Section 173.32

In § 173.32, paragraph (e)(3) is amended to authorize smaller markings on specification portable tanks that were originally authorized to be marked with letters and numerals as small as 1/8 of an inch in height. The specification plates originally attached to these packagings do not have sufficient space to accommodate the larger size retest markings currently required.

Section 173.60

In § 173.60, a new paragraph (b)(14) is added, consistent with the UN Recommendations, to allow large explosive articles normally intended for military use to be transported unpackaged under specified conditions. This provision is currently found in § 173.62, Packing Instruction (PI) 130; however, the provision only applies to those explosives assigned to PI 130. Inclusion of this new paragraph will allow any large explosive article normally intended for military use to be transported unpackaged under the specified conditions.

Section 173.61

In § 173.61, paragraph (a) is revised to clarify that explosives may be packed with non-hazardous materials that will not adversely affect the explosive. RSPA believes that relaxing this provision will avoid the need for exemptions.

Section 173.62

In § 173.62, paragraph (d) is removed, as stated earlier in the preamble discussion of § 173.7.

Section 173.150

RSPA proposed to remove the wording ''and combustible liquids'' in the first sentence of § 173.150(b) as unnecessary because combustible liquids are already generally excepted from the provisions of paragraph (f)(2) of this section. We believed that referring to combustible liquids was unnecessary because there is no requirement for labeling or specification packaging. Several commenters pointed out that by adopting this revision, RSPA inadvertently would be removing exceptions for limited quantities of combustible liquids that are also hazardous substances, hazardous wastes or marine pollutants. RSPA agrees; therefore, this proposal is not adopted. In § 173.150, paragraph (f)(3)(iv) is revised to clarify that placards are not required for a combustible liquid that is a hazardous substance, hazardous waste

or marine pollutant in a non-bulk packaging.

In the NPRM, we proposed to revise paragraph (f)(3)(viii) by changing the reference for § 177.834 to § 177.834(j). This revision would have clarified that combustible liquids are not subject to the other provisions of § 177.834, such as those pertaining to attendance. The proposal resulted from a petition for rulemaking (P–1376) from the Petroleum Marketers Association of America (PMAA).

Three commenters addressed this proposal, one in support and two in opposition. PMAA reiterated its support for the change, noting that it would result in significant savings to the heating oil industry and expressing confidence that there would be no compromise in safety. The American Trucking Associations (ATA) and the Hazardous Materials Advisory Council (HMAC) oppose the proposed change. ATA believes that total elimination of attendance requirements for loading and unloading combustible liquids would diminish overall hazardous materials transportation safety. ATA recommends that we consider a limited exception for the delivery of home heating fuels similar to the exception provided for deliveries of liquefied petroleum gas and anhydrous ammonia in a final rule issued under HM–225A (RSPA–97–2718; 64 FR 28030). HMAC is concerned that, under the provisions of the NPRM, deliveries of furnace oil to homes and businesses and diesel fuel to gas stations would not require attendance to the detriment of transportation safety. HMAC also notes that the proposal could provide an inducement to shippers to take advantage of the reclassification option for materials with flash points at or above 100 °F, thereby expanding the number and volume of materials that would require neither human nor instrument monitoring. Like ATA, HMAC recommends that we consider a limited exception to the attendance requirement for deliveries of home heating oil. In a clarification of its comments, PMAA said that it would support a narrowing of the NPRM proposal, so that the exception from attendance requirements would apply only to deliveries of home heating oil in conformance with its petition for rulemaking.

We agree with commenters that combustible liquids should not be excepted completely from attendance requirements during loading and unloading operations because such an exception could adversely affect safety. At the same time, however, we believe that the relatively low risk presented by combustible liquids in transportation argues for a more flexible attendance regulation than that currently required by § 177.834(i). Accordingly, in this final rule we are revising § 173.150(f)(3)(viii) to replace the reference to § 177.834 with § 177.834(j) and § 177.837(d). We are adding a new paragraph (d) to § 177.837 to authorize operators of cargo tank motor vehicles unloading combustible liquids to monitor the unloading operation from a distance of up to 150 feet from the cargo tank and 25 feet from the delivery hose. The operator must observe the cargo tank and the receiving tank at least once every five minutes during unloading operations that take more than five minutes to complete. This is consistent with commenters' recommendations that the HMR include an attendance exception similar to that currently provided for cargo tank motor vehicles unloading liquefied petroleum gas and anhydrous ammonia in metered delivery service.

Section 173.166

Paragraph (c) is being revised for consistency with the changes being adopted in §§ 171.11 and 171.12 to except shippers of Division 2.2 air bag modules and inflators or seat-belt pretensioners from entering the EX (applicable explosives approval) number on shipping papers.

In the NPRM, RSPA proposed to revise the introductory text in paragraph (e) to clarify that all airbag modules and inflators and seat belt pretensioners, including those in Division 2.2 that are transported under UN3353, must be packaged in UN outer packagings meeting the Packing Group III performance level. HMAC and another commenter expressed their objection to the proposal to require Packing Group III level packagings for devices under UN3353, stating the change would substantially increase cost to industry. Additionally, the latter commenter stated that RSPA does not currently require UN performance-oriented outer packagings for these devices. Upon further consideration, RSPA believes the use of outer UN packagings meeting the Packing Group III performance level should not be required at this time for the Division 2.2 devices. The UN Committee of Experts on the Transport of Dangerous Goods is considering a proposal to classify air bag inflators, air bag modules and seat-belt pretensioners into class 1 or 9. Therefore, RSPA is withholding further action pending the outcome of the UN proposal. We are revising the introductory text in paragraph (e) to clarify that the Class 9 devices must be in outer UN packagings meeting the Packing Group III performance level, as proposed.

We are adding a new paragraph (d)(3) to authorize an air bag module or a seat belt pretensioner that has been removed from a motor vehicle that was manufactured as required for use in the United States to be offered for transportation in commerce without marking the EX number or product code on the shipping paper, as required by current paragraph (c). Instead, the word ''Recycled'' is entered immediately after the basic description prescribed in § 172.202. This change will facilitate transportation of these devices for recycling and eliminate the need for exemption DOT–E 12189 granted to the Automotive Recyclers Association and several other grantees.

Section 173.242

In paragraph (c)(1), a reference to obsolete § 178.253–4 is removed and replaced with the specific portable tank venting requirements that were contained in that section.

Section 173.247

Paragraph (g)(1)(iii)(C) is revised to clarify the pressure relief device requirements for bulk packagings transported by rail. The previous regulatory text may have been misunderstood as requiring the use of a combination pressure relief device, such as a reclosing pressure relief device (a safety valve) incorporating a rupture disc on the upstream side. The paragraph is revised to clarify the requirement for a nonreclosing pressure relief device that incorporates a rupture disc conforming to the requirements of § 179.15.

Section 173.306

Paragraph (h)(2) is revised to clarify that shipping papers are required for a Class 2 material that has been reclassed as a consumer commodity if it also meets the definition for ''marine pollutant.'' This change provides consistency with corresponding HMR limited quantity provisions.

Section 173.307

Paragraph (a)(4) is revised to except from the HMR refrigerating machines, including dehumidifiers, air conditioners and their components, containing up to 12 kg (25 pounds) or less of a non-flammable, non-toxic gas; 12 L (3 gallons) or less of ammonia solution (UN2672); 12 kg (25 pounds) of flammable non-toxic gas, except for air transportation; and 20 kg (44 pounds) or less of a Group A1 refrigerant specified in ANSI/ASHRAE Standard 15, except for air and vessel transportation. In

addition, for air transportation consistent with Special Provision A103 of the ICAO Technical Instructions, an exception is provided for refrigerating machines containing 100 g (4 ounces) or less of a flammable, non-toxic liquefied gas. This paragraph is also revised for clarity and to reference both International System of Units (SI) and customary units.

Part 174

Section 174.26

The section heading is revised by removing the phrase ''of placarded cars.'' This change clarifies that the prescribed shipping paper requirements apply to any person who accepts hazardous materials for transportation by rail.

Section 174.50

As set forth in § 174.50, the Federal Railroad Administration (FRA) has authority to approve for movement a tank car not conforming to the HMR. Since the adoption of the provision, FRA has issued approximately 400 movement approvals for tank cars that no longer conform to the regulations, for reasons such as leaking fittings, accident damage and exceeding the gross rail load. RSPA is expanding FRA's approval authority from tank cars to all rail cars. This change allows FRA to grant approval for the movement of covered hopper cars, gondola cars, and other types of railroad equipment when they no longer conform to Federal law, but may safely be moved to a repair location. This change also eliminates the need to obtain an exemption for such movements.

Part 175

Section 175.25

Paragraph (a)(2)(ii) is revised to authorize lettering of at least 4 mm (.16 inch) in height, based on RSPA's initiative. Currently, the height requirement is 6 mm (0.2 inch) minimum for some of the information required on the notification to air passengers of hazardous materials restrictions. One commenter stated that with today's attention on enforcement and monitoring of regulations, RSPA should not be requiring smaller lettering on signs. RSPA believes that the smaller lettering does not significantly impact readability and encourages the use of space on signs for other information such as conveying the message by using graphics. This revision is, therefore, adopted as proposed.

Section 175.30

In the NPRM, we proposed to broaden an exception in paragraph (d)(1) for inspecting packages of consumer commodities packaged in a freight container to include consumer commodities that are palletized or overpacked. Because of certain safety concerns, we believe this matter needs further review. We intend to review the exception for inspection of consumer commodities in a freight container and do not believe that this relaxation of air transportation requirements is appropriate at this time. Therefore, this proposal is not adopted.

Part 177

Section 177.834

In paragraph (i)(3), we are adding the new exception from attendance requirements for combustible liquids by referencing § 177.837(d), as stated in the preamble discussion to § 173.150.

Section 177.837

We are adding a new paragraph (d) to authorize an exception from the attendance requirements in § 177.834(i) for operators of cargo tanks in combustible liquid service. This exception is consistent with commenters' recommendation that we provide an exception for combustible liquids similar to the exception currently provided for unloading operations involving liquefied petroleum gas and anhydrous ammonia in metered delivery service.

Section 177.848

Paragraph (c) is revised to clarify that the prohibition against loading or storing cyanides or cyanide mixtures with acids applies only if hydrogen cyanide is generated when the materials come into contact with each other.

Part 178

Section 178.3

RSPA is amending the introductory text to paragraph (a) to clarify that the specification markings on a UN standard packaging must be marked on a non-removable component of a packaging. One commenter suggested that, if this proposal is adopted, regulators and field enforcement agents may believe that placing a specification marking on a removable component of a packaging is prohibited. RSPA does not agree. Section 178.503(b) permits duplicate markings on a removable component of a packaging.

Section 178.345–13

In paragraph (a), a reference to obsolete §§ 178.346–13(a), 178.347–13(a), and 178.348–13(a) is removed.

Section 178.603

RSPA is revising paragraph (f)(5) to allow a slight discharge from a closure of any type of packaging if it ceases immediately after impact and there is no further leakage. Previously, this allowance applied only to drums, jerricans or bags. This change aligns the criteria for passing the drop test with international regulations.

Section 178.605

RSPA is revising the last sentence in paragraph (d)(1) to correctly reference the maximum filling limits in § 173.24a (d).

Section 178.703

RSPA is revising § 178.703(a)(1)(ii) to correctly reference all of paragraph (a) of § 178.702, and not merely paragraphs (a)(1) and (2), for the code number used to designate an IBC design type.

Section 178.815

Paragraph (c)(4)(iii) is added to authorize dynamic compression testing for IBCs in the same manner as is currently authorized for non-bulk packagings. RSPA believes that the dynamic compression test is an equivalent test method and that allowing more flexibility in the stacking test requirements will provide a cost savings to the regulated industry.

Part 179

Section 179.100–20

RSPA is removing the water capacity entry in the table that sets forth the stamped markings for DOT–105A100W tank cars. RSPA believes this requirement is redundant. Section 179.22 requires a tank car to be marked in accordance with Appendix C of the Association of American Railroads (AAR) Tank Car Manual. Section C3.03 of the AAR Manual already requires marking the water capacity, in gallons and liters, on the side of the tank car. The removal of this entry has no effect on safety.

Part 180

Section 180.417

RSPA is revising paragraph (a)(2) to allow a cargo tank owner to retain the vehicle certification report and related papers at a company's principal place of business or at the location where the vehicle is housed or maintained, without obtaining prior approval from the Federal Motor Carrier Safety

Administration. This change offers motor carriers greater flexibility in the location where these documents are retained.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The costs and benefits associated with this rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or regulatory evaluation.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule does preempt State, local, and Indian tribe requirements but does not adopt any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) The designation, description, and classification of hazardous materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(v) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject items (i), (ii), (iii), and (v) above and preempts State, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. This final rule is necessary to update, clarify and provide relief from regulatory requirements.

Federal hazardous materials transportation law provides at section 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements will be 90 days from the date of publication in the **Federal Register**.

C. Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule would amend miscellaneous provisions in the HMR, generally to clarify those provisions and to relax requirements that are overly burdensome. The changes in this rule are generally intended to provide relief to shippers, carriers, and packaging manufacturers, some of whom are small entities (*e.g.*, governmental jurisdictions and not-for-profit organizations). The costs and benefits associated with this rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or regulatory evaluation. Therefore, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. This final rule does not propose any new information collection burdens. The information collection associated with the proposal to provide for nonconforming railcars under § 174.50 is currently being reported under the information collection for exemption applications under § 107.105. Information collection requirements contained in § 174.50 have been approved by the OMB under control number 2137–0559.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

49 CFR Part 175

Air Carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; Sec. 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.45, 1.53.

§ 107.105 [Amended]

2. In § 107.105, in paragraph (a)(2), the wording ''mailing addresses'' is removed and the wording ''mailing addresses, e-mail address optional'' is added in its place.

§ 107.107 [Amended]

2a. In § 107.107, in paragraph (b)(3), the wording ''mailing addresses'' is removed and the wording ''mailing addresses, e-mail address optional'' is added in its place.

§ 107.109 [Amended]

2b. In § 107.109, in paragraph (a)(3), the wording ''mailing addresses'' is removed and the wording ''mailing addresses, e-mail address optional'' is added in its place.

§ 107.705 [Amended]

2c. In § 107.705, in paragraph (a)(4), the wording ''street, mailing address'' is removed and the wording ''street and mailing addresses, e-mail address optional'' is added in its place.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

3. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 171.7 [Amended]

4. In § 171.7, paragraph (a)(3), in the table of material incorporated by reference, in the entry ''ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX'' remove the wording'' of 1992 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code and Addenda through December 31, 1993'' and add the wording ''of 1998 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code'' in its place.

5. In § 171.8, the definitions of ''Aerosol,'' ''EX number'' and ''Placarded car'' are revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Aerosol means any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a nonpoisonous (other than a Division 6.1 Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

* * * * *

EX number means a number preceded by the prefix ''EX'', assigned by the Associate Administrator for Hazardous Materials Safety, to an item that has been evaluated under the provisions of § 173.56 of this subchapter.

* * * * *

Placarded car means a rail car which is placarded in accordance with the requirements of part 172 of this subchapter.

* * * * *

6. In § 171.11, paragraph (d)(5) is revised and a sentence is added at the end of paragraph (d)(14) to read as follows:

§ 171.11 Use of ICAO Technical Instructions.

* * * * *

(d) * * *

(5) Except for a Division 2.2 air bag, air bag module, or seat-belt pretensioner, the shipping paper description must conform to the requirements of § 173.166(c) of this subchapter.

* * * * *

(14) * * * In addition, an aerosol must be in a metal packaging if the packaging exceeds 7.22 cubic inches.

* * * * *

7. In § 171.12, a sentence is added at the end of paragraph (a) and a new paragraph (b)(19) is added to read as follows:

§ 171.12 Imports and export shipments.

(a) * * * All shipping paper information required under paragraph (b) or (d) of this section must be in English.

(b) * * *

(19) Except for Division 2.2, the shipping paper description for an air bag, air bag module, or seat-belt pretensioner must conform to the requirements of § 173.166(c) of this subchapter.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

8. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

9. In § 172.101, paragraphs (b)(2), (b)(6), and (c)(8) are revised to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

(b) * * *

(2) The letter ''A'' denotes a material that is subject to the requirements of this subchapter only when offered or intended for transportation by aircraft, unless the material is a hazardous substance or a hazardous waste. A shipping description entry preceded by an ''A'' may be used to describe a material for other modes of transportation provided all applicable requirements for the entry are met.

* * * * *

(6) The letter ''W'' denotes a material that is subject to the requirements of this subchapter only when offered or intended for transportation by vessel, unless the material is a hazardous substance or a hazardous waste. A shipping description entry preceded by a ''W'' may be used to describe a material for other modes of transportation provided all applicable requirements for the entry are met.

(c) * * *

(8) Use of the word ''liquid'' or ''solid''. The word ''liquid'' or ''solid''

may be added to a proper shipping name when a hazardous material specifically listed by name may, due to differing physical states, be a liquid or solid. When the packaging specified in Column 8 is inappropriate for the physical state of the material, the table provided in paragraph (i)(4) of this section should be used to determine the appropriate packaging section.

* * * * *

§ 172.101 [Amended]

10. In § 172.101, in the Hazardous Materials Table, the following changes are made:

a. For the entry ''Air, compressed'', Special Provision ''78'' is added in Column 7.

b. For the entry, ''Polychlorinated biphenyls, liquid, UN2315'' in Column 1 Symbols ''A, W'' are removed and Special Provision '', 140'' is added in Column 7 in numerical order.

c. For the entry, ''Polychlorinated biphenyls, solid, UN2315'' in Column 1 Symbols ''A, W'' are removed and Special Provision '', 140'' is added in Column 7 in numerical order.

d. For the entry, ''Rare gases and oxygen mixtures, compressed'', Special Provision ''79'' is added in Column 7.

e. For the entry, ''Sodium chlorate, aqueous solution'', PG II, Special Provision ''B6,'' is removed in column 7.

f. By removing and adding, in appropriate alphabetical sequence, the following entries to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

§ 172.101.—HAZARDOUS MATERIALS TABLE

Symbols & Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions	(8) Packaging authorizations (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage requirements	
						Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1) (2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
[REMOVE:]												
* *	*	*	*		*		*		*			
Chemical kits *or* First aid kits (*containing hazardous materials*). ...	9	UN3316	.....	9	15	None	None	None	10 kg	10 kg	A	.....
* *	*	*	*		*		*		*			
1-Chloro-3-bromopropane	6.1	UN2688	III	6.1	T2	153	203	241	60 L	220 L	A	.....
* *	*	*	*		*		*		*			
[ADD:]												
* *	*	*	*		*		*		*			
1-Bromo-3-chloropropane	6.1	UN2688	III	6.1	T2	153	203	241	60 L	220 L	A	.....
* *	*	*	*		*		*		*			
Chemical kits	9	UN3316	.....	9	15	None	None	None	10 kg	10 kg	A	.....
* *	*	*	*		*		*		*			
First aid kits	9	UN3316	.....	9	15	None	None	None	10 kg	10 kg	A	.....
* *	*	*	*		*		*		*			
Fumigated transport vehicle or freight container see § 173.9	.....		.....	.....	.....	.....	.....	.....	.....	.....		.....
* *	*	*	*		*		*		*			

11. In addition, in § 1A172.101, in the Hazardous Materials Table, for the following Column (2) entries, remove the old entry in Column (10B) and add the new entry in Column (10B) as set forth below:

Column (2) entry	Column (4) entry	PG	Column (10B) old entry	Column (10B) new entry
Chloroacetone, stabilized	UN1695	I	20, 40, 95	21, 40, 100
Compressed gas, toxic, flammable, n.o.s. *Inhalation hazard Zone A*	UN1953	.....	40, 95	40
Cupriethylenediamine solution	UN1761	II	95	
Cyclohexyl isocyanate	UN2488	I	20, 40, 95	40
3,5-Dichloro-2,4,6-trifluoropyridine	NA9264	I	40, 95	40
Ethyl phosphonothioic dichloride, anhydrous	NA2927	I	20, 40, 95	40
Ethyl phosphorodichloridate	NA2927	I	20, 40, 95	40
Hydrofluoric acid and Sulfuric acid mixtures	UN1786	I	40, 95	40
Lead dioxide	UN1872	III	34	
Methyldichloroarsine	NA1556	I	40, 95	40
Oxidizing liquid, corrosive, n.o.s	UN3098	I, II, III	34, 56, 58, 69, 106	13, 56, 58, 69, 106
Oxidizing liquid, toxic, n.o.s	UN3099	I, II, III	56, 58, 95, 106	56, 58, 69, 106
Oxidizing solid, corrosive, n.o.s	UN3085	I, II, III	13, 34, 56, 58, 69, 106.	13, 56, 58, 69, 106
Oxidizing solid, toxic, n.o.s	UN3087	I, II, III	56, 58, 69, 95, 106	56, 58, 69, 106
Phenyl isocyanate	UN2487	I	20, 40, 95	40
Polychlorinated biphenyls, liquid	UN2315	II	34	95
Polychlorinated biphenyls, solid	UN2315	II	34	95
Polyhalogenated biphenyls, liquid *or* Polyhalogenated terphenyls liquid.	UN3151	II	34	95
Polyhalogenated biphenyls, solid *or* Polyhalogenated terphenyls, solid.	UN3152	II	34	95
Potassium hydrogendifluoride, *solution*	UN1811	II	26, 40, 95	25, 26, 40
Radioactive material, low specific activity, n.o.s. *or* Radioactive material, LSA, n.o.s.	UN2912	.....	.....	95
Radioactive material, special form, n.o.s	UN2974	.....	.....	95

Column (2) entry	Column (4) entry	PG	Column (10B) old entry	Column (10B) new entry
Radioactive material, surface contaminated object *or* Radioactive material, SCO.	UN2913			95
Sodium hydrosulfide, solution	NA2922	II	40, 95	26
Thorium metal, pyrophoric	UN2975			95
Thorium nitrate, solid	UN2976			95
Toxic liquids, corrosive, organic, n.o.s., *Inhalation hazard, Packing Group I, Zone A.*	UN2927	I	20, 40, 95	40
Toxic liquids, corrosive, organic, n.o.s., *Inhalation hazard, Packing Group I, Zone B.*	UN2927	I	20, 40, 95	40
Toxic liquids, flammable, organic, n.o.s., *Inhalation hazard, Packing Group I, Zone A.*	UN2929	I	20, 40, 95	40
Toxic liquids, flammable, organic, n.o.s., *Inhalation hazard, Packing Group I, Zone B.*	UN2929	I	20, 40, 95	40
Toxic, liquids, organic, n.o.s. *Inhalation hazard, Packing Group I, Zone A.*	UN2810	I	20, 40, 95	40
Toxic, liquids, organic, n.o.s. *Inhalation hazard, Packing Group I, Zone B.*	UN2810	I	20, 40, 95	40
Uranium hexafluoride, fissile (*with more than 1 percent U–235*)	UN2977			95
Uranium metal, pyrophoric	UN2979			95
Uranyl nitrate hexahydrate solution	UN2980			95
Uranyl nitrate, solid	UN2981			95

Appendix A to § 172.101 [Amended]

11a. In Appendix A to § 172.101, paragraph 3. is amended by removing the wording ''§ 172.101(c)(8)'' and adding the wording ''§ 172.101(c)''.

11b. In addition, in Appendix A to § 172.101, in Table 1, Hazardous Substances Other Than Radionuclides, the following entry is added in appropriate alphabetical order to read as follows:

Appendix A to § 172.101—List of Hazardous Substances and Reportable Quantities

* * * * *

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
* * * * * * * *.	
Acrolein	1(0.454)
* * * * * * * *.	

* * * * *

12. In § 172.102, in paragraph (c)(1), Special Provisions 78, 79 and 140 are added in numerical order; in paragraph (c)(5), Special Provision N10 is amended by adding a sentence at the end and Special Provision N20 is added to read as follows:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(1) * * *

Code/Special Provisions

* * * * *

78 This entry may not be used to describe compressed air which contains more than 23.5 percent oxygen. An oxidizer label is not required for any oxygen concentration of 23.5 percent or less.

79 This entry may not be used for mixtures that meet the definition for oxidizing gas.

* * * * *

140 This material is regulated only when it meets the defining criteria for a hazardous substance or a marine pollutant. In addition, the column 5 reference is modified to read ''III'' on those occasions when this material is offered for transportation or transported by highway or rail.

* * * * *

(5) * * *

Code/Special Provisions

* * * * *

N10 * * * The approval number (*e.g.,* T–* * *) must be marked on each outer package and on the shipping paper.

* * * * *

N20 A 5M1 multi-wall paper bag is authorized if transported in a closed transport vehicle.

* * * * *

§ 172.201 [Amended]

13. In § 172.201, paragraph (a)(1)(ii) is amended by revising the reference ''§ 172.202(a)(1) and (2), and (3)), or'' to read ''§ 172.202(a)(1), (2), (3), and (4)), or''.

14. In § 172.204, in paragraph (c)(1), in the certification, the word ''packed'' is removed and the word ''packaged'' is added in its place and a note is added following the certification to read as follows:

§ 172.204 Shipper's certification.

* * * * *

(c) * * *

(1) * * *

Note to Paragraph (c)(1): In the certification, the word ''packed'' may be used instead of the word ''packaged'' until October 1, 2010.

* * * * *

15. In § 172.332, paragraph (a) is revised to read as follows:

§ 172.332 Identification number markings.

(a) *General.* When required by § 172.301, § 172.302, § 172.313, § 172.326, § 172.328, § 172.330, or § 172.331, identification number markings must be displayed on orange panels or placards as specified in this section, or on white square-on-point configurations as prescribed in § 172.336(b).

* * * * *

§ 172.336 [Amended]

16. In § 172.336, in paragraph (b) introductory text, the first sentence is amended by removing the wording ''For hazardous materials in hazard classes for which hazard warning placards are not specified, identification'' and replacing it with the word ''Identification''.

17. In § 172.504, paragraph (e), Table 2 is amended by revising the entry for category 9, and paragraph (f)(8) is revised to read as follows:

§ 172.504 General placarding requirements.

* * * * *

(e) * * *

Table 2

Category of material (Hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference (§)
* * * * * * *		
9	Class 9 (see § 172.504(f)(9))	172.560

(f) * * *

(8) For domestic transportation, a POISON INHALATION HAZARD placard is not required on a transport vehicle or freight container that is already placarded with the POISON GAS placard.

* * * * *

18. In § 172.516, the first sentence of paragraph (a) is revised to read as follows:

§ 172.516 Visibility and display of placards.

(a) Each placard on a motor vehicle and each placard on a rail car must be clearly visible from the direction it faces, except from the direction of another transport vehicle or rail car to which the motor vehicle or rail car is coupled. * * *

* * * * *

19. In § 172.519, paragraph (b)(3) is revised to read as follows:

§ 172.519 General specifications for placards.

* * * * *

(b) * * *

(3) For other than Class 7 or the DANGEROUS placard, text indicating a hazard (for example, ''FLAMMABLE'') is not required. Text may be omitted from the OXYGEN placard only if the specific identification number is displayed on the placard.

* * * * *

20. In § 172.604, paragraph (c)(2) is revised to read as follows:

§ 172.604 Emergency response telephone number.

* * * * *

(c) * * *

(2) Materials properly described under the following shipping names:

Battery powered equipment
Battery powered vehicle
Carbon dioxide, solid
Castor bean
Castor flake
Castor meal
Castor pomace
Consumer commodity
Dry ice
Engines, internal combustion
Fish meal, stabilized
Fish scrap, stabilized
Refrigerating machine
Wheelchair, electric

§ 172.704 [Amended]

21. In § 172.704, paragraph (b) is amended by adding the wording ''or 1910.1200'' immediately after the wording ''1910.120''.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

22. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

§ 173.4 [Amended]

23. In § 173.4 the following changes are made:

a. In paragraph (a)(1)(i), the wording ''Hazard Zone A or B'' is added after ''Division 6.1, Packing Group I,'' and before ''materials''.

b. In paragraph (a)(1)(ii), the wording ''Hazard Zone A or B'' is added after ''Division 6.1, Packing Group I,'' and before ''materials''.

c. In paragraph (a)(1)(iii), the wording ''classed as Division 6.1, Packing Group I; and'' is removed and the wording ''meeting the definition of a Division 6.1, Packing Group I, Hazard Zone A or B material; and'' is added in its place.

d. A note is added following paragraph (a)(6)(ii) to read as follows:

§ 173.4 Small quantity exceptions.

(a) * * *

(6) * * *

(ii) * * *

Note to Paragraph (a)(6): Each of the tests in paragraph (a)(6) of this section may be performed on a different but identical package; i.e., all tests need not be performed on the same package.

* * * * *

24–25. In § 173. 5, paragraph (a) introductory text is revised to read as follows:

§ 173.5 Agricultural operations.

(a) For other than a Class 2 material, the transportation of an agricultural product over local roads between fields of the same farm is excepted from the requirements of this subchapter. A Class 2 material transported over local roads between fields of the same farm is excepted from subparts G and H of part 172 of this subchapter. In either instance, transportation of the hazardous material is subject to the following conditions:

* * * * *

26. In § 173.7, a new paragraph (e) is added to read as follows:

§ 173.7 U.S. Government material.

* * * * *

(e) Class 1 (explosive) materials owned by the Department of Defense and packaged prior to January 1, 1990, in accordance with the requirements of this subchapter in effect at that time, are excepted from the marking and labeling requirements of part 172 of this subchapter and the packaging and package marking requirements of part 178 of this subchapter provided the packagings have maintained their integrity and the explosive material is declared as ''government-owned goods packaged prior to January 1, 1990'' on the shipping papers.

27. In § 173.12, paragraph (b)(3) is revised to read as follows:

§ 173.12 Exceptions for shipment of waste materials.

* * * * *

(b) * * *

(3) *Prohibited materials.* The following materials may not be packaged or described under the provisions of this paragraph (b): a material poisonous by inhalation, a Division 6.1 Packing Group I material, a Division 4.2 Packing Group I material, chloric acid and oleum (fuming sulfuric acid).

* * * * *

§ 173.13 [Amended]

28. In § 173.13, paragraph (a) is amended by adding the parenthetical phrase ''(except for the CARGO AIRCRAFT ONLY label)'' after the word ''labeling'' in the first sentence.

29. In § 173.32, paragraph (e)(3) is revised to read as follows:

§ 173.32 Qualification, maintenance and use of portable tanks other than Specification IM portable tanks.

* * * * *

(e) * * *

(3) *Marking.* The date of the most recent periodic retest must be marked on the portable tank, on or near the metal certification plate. Marking must be in accordance with § 178.3 of this subchapter, except that a portable tank manufactured under a previously authorized specification may continue to be marked with smaller markings if originally authorized under that specification (e.g., DOT Specification 57 portable tanks).

* * * * *

30. In § 173.60, a new paragraph (b)(14) is added, to read as follows:

§ 173.60 General packaging requirements for explosives.

* * * * *

(b) * * *

(14) Large and robust explosives articles, normally intended for military use, without their means of initiation or with their means of initiation containing at least two effective protective features, may be carried unpackaged provided that a negative result was obtained in Test Series 4 of the UN Manual of Tests and Criteria on an unpackaged article. When such articles have propelling charges or are self-propelled, their ignition systems shall be protected against stimuli encountered during normal conditions of transport. Such unpackaged articles may be fixed to cradles or contained in crates or other suitable handling, storage or launching devices in such a way that they will not become loose during normal conditions of transport and are in accordance with DOD-approved procedures.

31. In § 173.61, paragraph (a) is revised to read as follows:

§ 173.61 Mixed packaging requirements.

(a) An explosive may not be packed in the same outside packaging with any other material that could, under normal conditions of transportation, adversely affect the explosive or its packaging unless packaged by DOD or DOE in accordance with § 173.7(a).

* * * * *

§ 173.62 [Amended]

32. In § 173.62, paragraph (d) is removed.

33. In § 173.150, in paragraph (f)(3)(iv), the word ''Placarding'' is removed and the wording ''For bulk packagings only, placarding'' is added in its place and paragraph (f)(3)(viii) is revised to read as follows:

§ 173.150 Exceptions for Class 3 (flammable) and combustible liquids.

* * * * *

(f) Combustible liquids. * * *

(3) * * *

(viii) The requirements of §§ 173.1, 173.21, 173.24, 173.24a, 173.24b, 174.1, 177.804, 177.817, 177.834(j), and 177.837(d) of this subchapter.

* * * * *

34. In § 173.166, a sentence is added at the end of paragraph (c), a new paragraph (d)(3) is added, and paragraph (e) introductory text is revised to read as follows:

§ 173.166 Air bag inflators, air bag modules and seat-belt pretensioners.

* * * * *

(c) * * * This paragraph (c) does not apply to a device classed as Division 2.2.

(d) * * *

(3) Shipments for recycling. When offered for domestic transportation by highway or cargo aircraft only, a serviceable air bag module or seat-belt pretensioner that has been removed from a motor vehicle and manufactured as required for use in the United States may be offered for transportation and transported without compliance with the shipping paper requirement prescribed in paragraph (c) of this section. However, the word ''Recycled'' must be entered on the shipping paper immediately after the basic description prescribed in § 172.202 of this subchapter. No more than one device is authorized in the packaging prescribed in paragraph (e)(1), (2) or (3) of this section. The device must be cushioned and secured within the package to prevent movement during transportation.

(e) *Packagings.* The following packagings at the Packing

Group III performance level are authorized for Class 9 devices:

* * * * *

35. In § 173.242, paragraphs (c)(1) and (c)(2) are revised and paragraph (c)(3) is added to read as follows:

§ 173.242 Bulk packagings for certain medium hazard liquids and solids, including solids with dual hazards.

* * * * *

(c) * * *

(1) *Minimum design pressure.* Each tank must have a minimum design pressure of 62 kPa (9 psig);

(2) *Pressure relief devices.* Each tank must be equipped with at least one pressure relief device, such as a spring-loaded valve or fusible plug, conforming to the following:

(i) Each pressure relief device must communicate with the vapor space of the tank when the tank is in a normal transportation attitude. Shutoff valves may not be installed between the tank opening and any pressure relief device. Pressure relief devices must be mounted, shielded, or drained to prevent the accumulation of any material that could impair the operation or discharge capability of the device;

(ii) Frangible devices are not authorized;

(iii) No pressure relief device may open at less than 34.4 kPa (5 psig);

(iv) If a fusible device is used for relieving pressure, the device must have a minimum area of 1.25 square inches. The device must function at a temperature between 104 °C. and 149 °C. (220 °F. and 300 °F.) and at a pressure less than the design test pressure of the tank, unless this latter function is accomplished by a separate device; and

(v) No relief device may be used which would release flammable vapors under normal conditions of transportation (temperature up to and including 54 °C. (130 °F.).); and

(3) *Venting capacity.* The minimum venting capacity for pressure activated vents must be 6,000 cubic feet of free air per hour (measured at 101.3 kPa (14.7 psi) and 15.6 °C. (60 °F.)) at not more than 34.4 kPa (5 psi). The total emergency venting capacity (cu. ft./hr.) of each portable tank must be at least that determined from the following table:

Total surface area square feet [1] [2]	Cubic feet free air per hour
20	15,800
30	23,700
40	31,600
50	39,500
60	47,400
70	55,300
80	63,300
90	71,200
100	79,100
120	94,900
140	110,700
160	126,500

[1] Interpolate for intermediate sizes.
[2] Surface area excludes area of legs.

* * * * *

36. In § 173.247, paragraph (g)(1)(iii)(C) is revised to read as follows:

§ 173.247 Bulk packaging for certain elevated temperature materials (Class 9) and certain flammable elevated temperature materials (Class 3).

* * * * *

(g) * * *

(1) * * *

(iii) * * *

(C) For transportation by rail, a nonreclosing pressure relief device

incorporating a rupture disc conforming to the requirements of § 179.15 of this subchapter.

* * * * *

§ 173.306 [Amended]

37. In § 173.306, in paragraph (h)(2), the wording ''hazardous substance or hazardous waste'' is removed and the wording ''hazardous substance, a hazardous waste, or a marine pollutant'' is added in its place.

38. In § 173.307, paragraph (a)(4) is revised to read as follows:

§ 173.307 Exceptions for compressed gases.

(a) * * *

(4) Refrigerating machines, including dehumidifiers and air conditioners, and components thereof, such as precharged tubing containing:

(i) 12 kg (25 pounds) or less of a non-flammable, non-toxic gas;

(ii) 12 L (3 gallons) or less of ammonia solution (UN2672);

(iii) Except when offered or transported by air, 12 kg (25 pounds) or less of a flammable, non-toxic gas;

(iv) Except when offered or transported by air or vessel, 20 kg (44 pounds) or less of a Group A1 refrigerant specified in ANSI/ASHRAE Standard 15; or

(v) 100 g (4 ounces) or less of a flammable, non-toxic liquefied gas.

* * * * *

PART 174—CARRIAGE BY RAIL

39. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

40. In § 174.26, the section heading is revised to read as follows:

§ 174.26 Notice to train crews.

* * * * *

41. Section 174.50 is revised to read as follows:

§ 174.50 Nonconforming or leaking packages.

A leaking non-bulk package may not be forwarded until repaired, reconditioned, or overpacked in accordance with § 173.3 of this subchapter. Except as otherwise provided in this section, a bulk packaging that no longer conforms to this subchapter may not be forwarded by rail unless repaired or approved for movement by the Associate Administrator for Safety, Federal Railroad Administration. Notification and approval must be in writing, or through telephonic or electronic means, with subsequent written confirmation provided within two weeks. For the applicable address and telephone number, see § 107.117(d)(4) of this chapter. A leaking bulk package containing a hazardous material may be moved without repair or approval only so far as necessary to reduce or to eliminate an immediate threat or harm to human health or to the environment when it is determined its movement would provide greater safety than allowing the package to remain in place. In the case of a liquid leak, measures must be taken to prevent the spread of liquid.

PART 175—AGE BY AIRCRAFT

42. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 175.25 [Amended]

43. In § 175.25, paragraph (a)(2)(ii), the wording ''6.0 mm (0.2 inch)'' is removed and the wording ''4.0 mm (0.16 inch)'' is added in its place.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

44–45. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

46. In § 177.834, paragraph (i)(3) is revised to read as follows:

§ 177.834 General requirements.

* * * * *

(i) *Attendance requirements.* * * *

(3) Except for unloading operations subject to §§ 177.837(d), 177.840(p), and 177.840(q), a qualified person ''attends'' the loading or unloading of a cargo tank if, throughout the process, he is alert and is within 7.62 meters (25 feet) of the cargo tank. The qualified person attending the unloading of a cargo tank must have an unobstructed view of the cargo tank and delivery hose to the maximum extent practicable during the unloading operation.

* * * * *

47. In § 177.837, paragraph (d) is added to read as follows:

§ 177.837 Class 3 (flammable liquid) materials.

* * * * *

(d) *Unloading combustible liquids.* For a cargo tank unloading a material meeting the definition for combustible liquid in § 173.150(f) of this subchapter, the qualified person attending the unloading operation must remain within 45.72 meters (150 feet) of the cargo tank and 7.62 meters (25 feet) of the delivery hose and must observe both the cargo tank and the receiving container at least once every five minutes during unloading operations that take more than five minutes to complete.

48. In § 177.848, paragraph (c) is revised to read as follows:

§ 177.848 Segregation of hazardous materials.

* * * * *

(c) In addition to the provisions of paragraph (d) of this section, cyanides or cyanide mixtures may not be loaded or stored with acids if a mixture of the materials would generate hydrogen cyanide.

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

49. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 178.3 [Amended]

50. In § 178.3, in paragraph (a) introductory text, the wording ''on a non-removable component of the packaging'' is added immediately following the word ''marked''.

§ 178.345–13 [Amended]

51. In § 178.345–13, in paragraph (a), the wording ''and §§ 178.346–13(a), 178.347–13(a) or 178.348–13(a), as applicable'' is removed.

52. In § 178.603, paragraph (f)(5) is revised to read as follows:

§ 178.603 Drop test.

* * * * *

(f) * * *

(5) Any discharge from a closure is slight and ceases immediately after impact with no further leakage; and

* * * * *

§ 178.605 [Amended]

53. In § 178.605, in paragraph (d)(1), in the last sentence, the reference ''§ 173.24a (b)(3)'' is revised to read ''§ 173.24a (d)''.

§ 178.703 [Amended]

54. In § 178.703, in paragraph (a)(1)(ii), the wording ''(1) and (2)'' is removed.

55. In § 178.815, the following changes are made:

a. In paragraph (c)(4)(i), immediately following the semicolon the word ''or'' is removed.

b. In paragraph (c)(4)(ii), at the end of the sentence the period is removed and the wording ''; or'' is added in its place.

c. A new paragraph (c)(4)(iii) is added to read as follows:

§ 178.815 Stacking test.

* * * * *

(c) * * *

(4) * * *

(iii) The packaging may be tested using a dynamic compression testing machine. The test must be conducted at room temperature on an empty, unsealed packaging. The test sample must be centered on the bottom platen of the testing machine. The top platen must be lowered until it comes in contact with the test sample. Compression must be applied end to end. The speed of the compression tester must be one-half inch plus or minus one-fourth inch per minute. An initial preload of 50 pounds must be applied to ensure a definite contact between the test sample and the platens. The distance between the platens at this time must be recorded as zero deformation. The force ''A'' to then be applied must be calculated using the applicable formula:

Liquids: $A = (n-1)\,[w + (s \times v \times 8.3 \times .98)] \times 1.5$;

or

Solids: $A = (n-1)\,[w + (s \times v \times 8.3 \times .95)] \times 1.5$

Where:

A = applied load in pounds.
n = minimum number of containers that, when stacked, reach a height of 3 m.
s = specific gravity of lading.
w = maximum weight of one empty container in pounds.
v = actual capacity of container (rated capacity + outage) in gallons.

And:

8.3 corresponds to the weight in pounds of 1.0 gallon of water.
1.5 is a compensation factor that converts the static load of the stacking test into a load suitable for dynamic compression testing.

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

56. The authority citation for part 179 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 179.100–20 [Amended]

57. In § 179.100–20, in the table in paragraph (a), the entry for ''Water capacity'' is removed.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

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

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

59. In § 180.417, paragraph (a)(2) is revised to read as follows:

§ 180.417 Reporting and record retention requirements.

(a) * * *

(2) Each motor carrier who uses a specification cargo tank motor vehicle must obtain a copy of the manufacturer's certificate and related papers or the alternative report authorized by paragraph (a)(3)(i) or (ii) of this section and retain the documents as specified in this paragraph (a)(2). A motor carrier who is not the owner of a cargo tank motor vehicle must also retain a copy of the vehicle certification report for as long as the cargo tank motor vehicle is used by that carrier and for one year thereafter. The information required by this section must be maintained at the company's principal place of business or at the location where the vehicle is housed or maintained. The provisions of this section do not apply to a motor carrier who leases a cargo tank for less than 30 days.

* * * * *

Issued in Washington, D.C. on August 4, 2000, under authority delegated in 49 CFR part 1.

John P. Murray,

Acting Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 00–20448 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000119014–0137–02; I.D. 080700C]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustments to the 2000 Summer Flounder, Scup and Black Sea Bass Commercial Quotas

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

ACTION: Commercial quota adjustment for 2000.

SUMMARY: NMFS issues a listing of additional adjustments to the 2000 commercial summer flounder, scup, and black sea bass quotas. This action complies with the regulations that implement the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP), which specifies that summer flounder landings in excess of a given state's individual commercial quota be deducted from that state's quota for the following year. Similarly, for scup and black sea bass, the FMP specifies that landings in excess of a quota for a given quota period (scup) or quarter (black sea bass) be deducted from the same quota period or quarter in the following year. The intent of this action is to continue the rate of rebuilding of summer flounder, scup and black sea bass in 2000 as described in the FMP's objectives, while also taking into account 1999 overages of state, period or quarterly quotas.

DATES: Effective August 18, 2000, through December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fisheries Policy Analyst, (978) 281–9279.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a document in the **Federal Register** on May 24, 2000 (65 FR 33486), announcing final specifications and preliminary adjustments to the 2000 summer flounder, scup and black sea bass commercial quotas. Additional adjustment is necessary through this notification due to the receipt of late 1999 landings data. The adjustment in this notification may not be final. Additional data including late landings reported from either federally permitted dealers or state statistical agencies reporting landings by non-federally permitted dealers could be received from the states that would further alter the quotas.

Summer Flounder

The 1999 quota, preliminary 1999 landings, and the resulting 1999 overages for all states for summer flounder are given in table 1. The following states recorded landings of summer flounder different from those reported in the May 24, 2000, **Federal Register:** MA—+219 lb (99 kg), CT—+13,172 lb (5,975 kg), NY—+10,616 lb (4,815 kg), NJ—+19,780 lb (8,972 kg), DE—59 lb (27 kg), MD—+35,492 lb (16,099 kg), and VA—+65,279 lb (29,610 kg).

The resulting adjusted 2000 commercial quota for each state is given in Table 2, taking into account both the 1999 quota overages published in the May 24, 2000, **Federal Register** and the revised 1999 landings noted here.

TABLE 1. SUMMER FLOUNDER PRELIMINARY 1999 LANDINGS AND OVERAGES BY STATE

State	1999 Quota		Preliminary 1999 Landings		1999 Overage	
	Lb	Kg	Lb	Kg	Lb	Kg [1]
ME	4,450	2,018	5,778	2,621	1,328	602
NH	51	23	0	0	0	0
MA	757,842	343,751	805,183	365,224	47,341	21,474
RI	1,742,583	790,422	1,636,528	742,317	0	0
CT	238,516	108,189	245,219	111,229	6,703	3,040
NY	860,006	390,099	803,903	364,644	0	0
NJ	1,853,926	840,927	1,917,732	869,868	63,806	28,942
DE	(25,739)[2]	(11,675)[2]	7,917	3,591	(33,656)[2]	(15,266)[2]
MD	202,354	91,786	234,358	106,303	32,004	14,517
VA	2,120,696	961,932	2,195,832	996,012	75,136	34,081
NC	2,974,589	1,349,274	2,800,749	1,270,398	0	0
Total[3]	10,755,013	4,866,746	10,653,199	4,832,209		

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[2] Parentheses indicate a negative number.
[3] Total quota is the sum of all states having allocation. A state with a negative number has an allocation of zero (0). Total quota and total landings do not equal overage because they reflect positive quota balances in several states.

TABLE 2. SUMMER FLOUNDER PRELIMINARY ADJUSTED 2000 QUOTAS BY STATE

State	2000 Initial Quota		2000 Adjusted Quota	
	Lb	Kg [1]	Lb	Kg[1]
ME	5,284	2,397	3,956	1,794
NH	51	23	51	23
MA	757,834	343,748	710,493	322,274
RI	1,742,566	790,041	1,742,566	790,415
CT	250,788	113,756	244,085	110,715
NY	849,672	385,405	849,672	385,404
NJ	1,858,346	842,931	1,794,540	813,990
DE	1,977	897	(31,679)[2]	(14,369)[2]
MD	226,568	102,770	194,564	88,253
VA	2,368,546	1,074,354	2,293,410	1,040,273
NC	3,049,560	1,383,257	3,049,560	1,383,257
Total	11,109,214	5,039,055	10,882,897	4,936,398

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[2] Parentheses indicate a negative number.
[3] Total quota is the sum of all states having allocation. A state with a negative number has an allocation of zero (0).

Scup

The 1999 quotas (by period), preliminary 1999 landings (by period), and resulting overages for scup for all quota periods are given in Table 3. Changes in 1999 landings from those reported in the May 24, 2000, **Federal Register** are as follows: Winter I—–167 lb (76 kg), Summer—+47,750 lb (21,659 kg), Winter II—+36,627 lb (16,614 kg). Note that the 1999 overage and 2000 quota for the scup Winter I period was incorrectly calculated in the May 24, 2000, **Federal Register**. The 1999 overage should have been 106,074 lb (48,069 kg) rather than 106,174 lb (48,114 kg), and the resulting 2000 adjusted quota should have been 1,037,086 lb (470,422 kg) rather than 1,037,986 lb (470,369 kg). Therefore, the 2000 adjusted quota for scup for Winter I period should now be 1,037,086 lb (470,422 kg) plus 167 lb (76 kg) = 1,037,253 lb (470,490 kg).

The resulting adjusted 2000 commercial quota for each quota period is given in Table 4.

TABLE 3. SCUP PRELIMINARY 1999 LANDINGS AND OVERAGES BY PERIOD

Period	1999 Quota		Preliminary 1999 Landings		1999 Overage	
	Lb	Kg [1]	Lb	Kg [1]	Lb	Kg [1]
Winter I	1,143,160	518,529	1,249,067	566,567	105,907	48,039
Summer	987,055	447,721	1,336,232	606,105	349,177	158,384
Winter II	403,945	183,226	737,534	334,539	333,589	151,313
Total	2,534,160	1,149,476	3,322,833	1,507,211		

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.

TABLE 4. SCUP PRELIMINARY ADJUSTED 2000 QUOTAS BY PERIOD

Period	2000 Initial Quota		2000 Adjusted Quota	
	Lb	Kg [1]	Lb	Kg [1]
Winter I	1,143,160	518,529	1,037,253	470,490
Summer	987,055	447,721	637,878	289,337
Winter II	403,945	183,226	70,356	31,913
Total	2,534,160	1,149,476	1,745,487	791,740

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.

Black Sea Bass

The 1999 quotas (by quarter), preliminary 1999 landings (by quarter), and resulting overages for black sea bass for all quarters are given in Table 5. Changes in landings from those reported in the May 24, 2000, **Federal Register** are as follows: Quarter 1—+7,753 lb (3,571 kg), Quarter 2—+30,837 lb (13,988 kg), Quarter 3—+52,464 lb (23,798 kg), and Quarter 4—+89,509 lb (40,601 kg).

TABLE 5. BLACK SEA BASS PRELIMINARY 1999 LANDINGS AND OVERAGES BY QUARTER

Quarter	1999 Quota[1]		Preliminary 1999 Landings		1999 Overage	
	Lb	Kg [2]	Lb	Kg [2]	Lb	Kg [2]
1. (Jan–Mar)	1,168,860	530,186	715,988	324,767		
2. (Apr–Jun)	885,115	401,481	1,062,155	481,785	177,040	80,304
3. (Jul–Sep)	372,983	169,182	525,243	238,246	152,260	69,064
4. (Oct–Dec)	598,043	271,268	745,373	338,095	147,330	66,828
Total	3,025,000	1,372,117	3,048,759	1,382,893		

[1] Reflects quotas as published on August 26, 1999 (64 FR 46596).
[2] Kilograms are as converted from pounds, and may not necessarily add due to rounding.

TABLE 6. BLACK SEA BASS PRELIMINARY ADJUSTED 2000 QUOTAS BY QUARTER

Quarter	2000 Initial Quota		2000 Adjusted Quota	
	Lb	Kg [1]	Lb	Kg [1]
1. (Jan-Mar)	1,168,760	530,141	1,168,760	530,141
2. (Apr–Jun)	885,040	401,447	708,000	321,143
3. (Jul–Sep)	372,951	169,168	220,691	100,104
4. (Oct–Dec)	597,991	271,244	450,661	204,416
Total	3,024,742	1,372,000	2,548,112	1,155,804

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: August 15, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–21100 Filed 8–17–00; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 161
Friday, August 18, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–03–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. The proposed AD would require you to accomplish the following on the torque oil-pressure tubes and py pressure pipe: a one-time inspection for abrasion damage, distortion, and proper clearance; and if necessary, adjustment and replacement of these components. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to correct abrasive damage from rubbing pipes and consequent loss of engine oil.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before September 22, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–03–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may inspect comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

You may get the service information that applies to the proposed AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224. You may examine this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite your comments on the proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date specified above, before acting on the proposed rule. We may change the proposals contained in this notice in light of the comments received.

Are there any specific portions of the AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might necessitate a need to modify the proposed rule. You may examine all comments we receive. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

The FAA is reviewing the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on the ease of understanding this document, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.faa.gov/language/.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–03–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Model PC–12 and PC–12/45 airplanes. The FOCA reports that 3 airplanes had rubbing pipes, 2 with consequent leakage of engine oil. Inadequate clearance caused these components to touch and rub.

What are the consequences if you do not correct the condition? This condition, if not corrected, could result in loss of propulsion during flight.

Relevant Service Information

Is there service information that applies to this subject? Pilatus has issued Service Bulletin No. 71–004, dated December 22, 1999.

What are the provisions of this service bulletin? The service bulletin describes procedures for accomplishing the following on the torque oil-pressure tubes and py pressure pipe:

—A one-time inspection for abrasion damage, distortion, and proper clearance; and,

—If necessary, adjustment and replacement of these components.

What action did the Swiss take? The Swiss issued AD Number HB 2000–007, dated January 17, 2000, in order to assure the continued airworthiness of these airplanes in Switzerland.

Was this in accordance with the bilateral airworthiness agreement? Pilatus manufactured these airplane models in Switzerland. The FAA type certificated the model for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Complying with this bilateral airworthiness agreement, the FOCA informed FAA of the situation described above.

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

What has FAA decided? The FAA has examined the findings of the FOCA; reviewed all available information,

including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Pilatus Model PC–12 and PC–12/45 airplanes of the same type design;

—These airplanes should incorporate the actions specified in the above service bulletin; and

—The FAA should take AD action to correct this unsafe condition.

What does this proposed AD require? This proposed AD requires you to:

—Accomplish a one-time inspection of the torque oil-pressure tubes and py pressure pipe; and

—Adjust or replace, if necessary, the torque oil-pressure tubes and py pressure pipe.

What are the differences between the FOCA AD and the proposed AD? The Swiss AD requires inspection, and, if necessary, adjustment or replacement within 10 days or 25 hours time-in-service (TIS) after the effective date of the AD, whichever occurs first. We propose a requirement that you inspect, and, if necessary, adjust or replace, the pipes within 50 hours TIS after the effective date of the proposed AD.

We do not have justification to require this action within 25 hours TIS. We use compliance times such as this when we have identified an urgent safety of flight situation. We believe that 50 hours TIS will give the owners or operators of the affected airplanes enough time to have the proposed actions accomplished without compromising the safety of the airplanes.

Cost Impact

This proposed AD impacts how many airplanes? We estimate that the proposed AD would affect 108 airplanes in the U.S. registry.

What is the cost impact of the proposed inspection for the affected airplanes on the U.S. Register? We estimate that it would take approximately 1 workhour per airplane to accomplish the proposed inspection, at an average labor rate of $60 an hour. Based on the figures presented above, we estimate the total cost impact of the proposed inspection on U.S. operators to be $6,480, or $60 per airplane.

What is the cost impact of the proposed adjustment and replacement for the affected airplanes on the U.S. Register? We estimate that it would take approximately 2 workhours per airplane to accomplish the proposed adjustment and replacement, at an average labor rate of $60 an hour. Based on the figures presented above, we estimate that the total cost impact of the proposed adjustment and replacement, if necessary, on U.S. operators is $120 per airplane. The manufacturer will provide replacement parts at no charge to the owner/operator of the affected airplanes.

Regulatory Impact

Does this proposed AD impact relations between Federal and State governments? The proposed regulations would 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. We have determined that this proposed rule would not have federalism implications under Executive Order 13132.

Does this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if put into effect, 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. We have placed a copy of the draft regulatory evaluation prepared for this action in the Rules Docket. You may obtain a copy of it by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd. Docket No. 2000–CE–03–AD.

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, manufacturer serial numbers (MSN) 101 through MSN 301, that:

(1) Are certificated in any category; and

(2) Are equipped with any of the following Pilatus torque oil-pressure tubes and py pressure pipe assemblies:

(i) Pilatus part number (P/N) 577.11.12.105 (or FAA-approved equivalent part number);

(ii) Pratt & Whitney Canada (P&WC) P/N 3119969 (or FAA-approved equivalent part number); and

(iii) Pilatus P/N 577.11.12.104 (or FAA-approved equivalent part number).

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* Our intent is that the actions specified in this AD correct chafing damage and consequent loss of engine oil caused by rubbing pipes. Such damage could result in loss of propulsion during critical phases of flight.

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

Actions	Compliance times	Procedures
(1) Inspect the torque oil-pressure tubes and the py pressure pipe assemblies for abrasion damage and distortion.	Within the next 50 hours time-in-service (TIS) after the effective date of the AD.	Accomplish in accordance with the ACCOMPLISHMENT INSTRUCTIONS—AIRCRAFT paragraph of Pilatus Service Bulletin No. 71–004, dated December 22, 1999.
(2) If there is any abrasion damage or distortion, accomplish the following: (i) Replace the pipes and tubes with the damage or distortion; and. (ii) Make sure there is a clearance distance of not less than 0.12 inches (3.0 millimeters), and make any appropriate adjustments.	Before further flight after the inspection.	As specified in the above-referenced service information.

Actions	Compliance times	Procedures
(3) If no abrasion damage or distortion is found, make sure there is a clearance distance of not less than 0.12 inches (3.0 millimeters), and make any appropriate adjustments.	Before further flight after the inspection	As specified in the above-referenced service information.

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

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

(2) The Manager, Small Airplane Directorate approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. You should include in the request an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* You can contact Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Swiss AD HB 2000–007, dated January 17, 2000.

Issued in Kansas City, Missouri, on August 11, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–20967 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–49–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Proposed Rule Making; Revision.

SUMMARY: This document proposes to revise an existing airworthiness directive (AD), applicable to General Electric Company CF34 series turbofan engines. That AD currently requires revisions to the Engine Maintenance Program specified in the manufacturer's Instructions for Continued Airworthiness (ICA) for General Electric Company (GE) CF34 series turbofan engines. Those revisions require enhanced inspection of selected critical life-limited parts at each piece-part exposure. That AD also requires that an air carrier's approved continuous airworthiness maintenance program incorporate these inspection procedures. This action would require the removal of certain inspection requirements for parts removed from engines mounted on-wing. This proposal is prompted by the high removal rate and subsequent piece-part exposure of fan disks due to certain mandatory maintenance procedures. This additional exposure has resulted in fan disk focused inspection rates that exceed the intent of the focused inspection initiative.

DATES: Comments for inclusion in the Rules Docket must be received on or before September 18, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–49–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Kevin Donovan, Aerospace Engineer Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7743, fax (238) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NE–44–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–44–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On February 7, 2000, the FAA issued AD 2000–03–03, Amendment 39–11560, (65 FR 5759) to require changes to the Engine Maintenance Program specified in the manufacturer's ICA for GE CF34 series turbofan engines. These changes required enhanced inspection of selected critical life-limited parts at each piece-part exposure and that an air carrier's approved continuous airworthiness maintenance program incorporate these inspection procedures. That action was prompted by an FAA study of in-service events involving uncontained failures of critical rotating engine parts, which indicated the need for improved inspections. The improved inspections are needed to identify those critical rotating parts with conditions that, if allowed to continue in service, could result in uncontained failures. If not corrected, that condition could result in engine rotating part failure, which could result in an uncontained engine failure and damage to the airplane.

Revised Inspection Requirements

Since AD 2000–03–03 was issued, the FAA has determined that, for piece-part exposures resulting from parts removed from an engine mounted on-wing in accordance with certain maintenance procedures, it is unnecessary to perform the inspection requirements listed in Table 804 of the GE CF34 series turbofan Engine Manual. Performing the enhanced inspections each time the disk is exposed on-wing does not significantly add to the probability of detection of defects. The FAA has concluded that inspection at every opportunity for this model engine is not necessary to maintain the level of safety intended by the current AD.

Since an unsafe condition has been identified that is likely to exist or develop on other GE CF34 engines of the same type design, the proposed AD would revise AD 2000–03–03 to change the mandatory inspection requirements to relieve parts removed from engines mounted on-wing from the inspection requirements of Table 804.

Regulatory Impact

The proposed revision would not increase the economic burden on US operators as set out in the economic analysis published for the current AD.

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

The FAA has determined that this regulation is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11560 (65 FR 5759, February 7, 2000), and by adding a new airworthiness directive, to read as follows:

General Electric Company: Docket 99–NE–49 AD. Revises AD 2000–03–03, Amendment 39–11560.

Applicability: General Electric Company (GE) CF34–3A1 and –3B1 series turbofan engines, installed on but not limited to Bombardier Canadair CL601R (RJ) aircraft.

Note 1: This 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: Required as indicated, unless accomplished previously.

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

Inspections

(a) Within the next 30 days after the effective date of this AD, revise the CF34 Engine Maintenance Program, Chapter 5–21–00, of the GE CF34 Series Turbofan Engine Manual, SEI–756, and for air carrier operations revise the approved continuous airworthiness maintenance program, by adding the following:

''9. *CF34–3A1 and CF34–3B1 Engine Maintenance Program —Mandatory Inspection Requirements.*

(A) This procedure is used to identify specific piece-parts that require mandatory inspections that must be accomplished at each piece-part exposure using the applicable Chapters referenced in Table 804 for the inspection requirements. The inspection requirements listed in Table 804 are not required for any piece-part exposure resulting when the engine remains on-wing while performing maintenance practice, special procedure Number 41 listed in SEI–756, chapter 72–00–00, or from Alert Service Bulletin 72–A0103__R00.

(B) Piece-part exposure is defined as follows: Note: Fan disk piece-part includes the fan disk with the 56 fan pin bushings installed.

(1) For engines that utilize the ''On Condition'' maintenance requirements: The part is considered completely disassembled to the piece-part level when done in accordance with the disassembly instructions in the GEAE authorized overhaul Engine Manual, and the part has accumulated more than 100 cycles-in-service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

(2) For engines that utilize the ''Hard Time'' maintenance requirements: The part is considered completely disassembled when done in accordance with the disassembly instructions used in the ''Minor Maintenance'' or ''Overhaul'' instructions in the GEAE engine authorized Engine Manual, and the part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

C. Refer to Table 804 below for the mandatory inspection requirements.

TABLE 804.—MANDATORY INSPECTION REQUIREMENTS

Part nomenclature	Manual/chapter, section/subject	Mandatory, inspection
Fan Disk (all)	72–21–00, INSPECTION	All areas (FPI) [1] Bores (ECI) [2]
Stage 1 high pressure turbine (HPT) Rotor Disk (all) (FPI)[1]	72–46–00, INSPECTION	All areas Bores (ECI) [2] Boltholes (ECI) [2] Air Holes (ECI) [2]
Stage 2 HPT Rotor Disk (all)	72–46–00, INSPECTION	All Areas (FPI) [1] Bores (ECI) [2]
(a) Boltless Rim Configuration		Boltholes (FPI) [1] Air Holes (FPI) [1]
(b) Bolted Rim Configuration		Boltholes (ECI) [2] Air Holes (ECI) [2]
HPT Rotor Outer Torque Coupling (all)	72–46–00, INSPECTION	All areas (FPI) [1] Bore (ECI) [2]

[1] FPI=Fluorescent Penetrant Inspection Method
[2] ECI=Eddy Current Inspection

(b) Except as provided in paragraph (c) of this AD, and notwithstanding the provisions of section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the CF34 Engine Maintenance Program, Chapter 5–21–00, of the General Electric Company, CF34 Series Turbofan Engine Manual, SEI–756.

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 requests through an appropriate FAA Principal Maintenance Inspector (PMI), 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 AD, if any, may be obtained from the ECO.

Special Flight Permits

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

Continuous Airworthiness Maintenance Program

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the record keeping requirement of § 121.369(c) of the Federal Aviation Regulations [14 CFR 121.369(c)] must maintain records of the mandatory inspections that result from revising the CF34 Engine Maintenance Program and the air carrier's continuous airworthiness program. Alternately, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369(c) of the Federal Aviation Regulations [14 CFR 121.369(c)]; however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under 121.380(a)(2)(vi) of the Federal Aviation Regulations [14 CFR 121.380(a)(2)(vi)]. All other operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Note 3: The requirements of this AD have been met when the engine manual changes are made and air carriers have modified their continuous airworthiness maintenance plans to reflect the Engine Maintenance Program requirements specified in the GE CF34 Series Turbofan Engine Manual.

Issued in Burlington, Massachusetts, on August 11, 2000.

David A. Downey,

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

[FR Doc. 00–21054 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–28]

Proposed Amendment of Class E Airspace; Picayune, MS.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Picayune, Ms. The Picayune—Pearl River County Airport has closed and a new airport has been established approximately 3.5 miles southeast of the Picayune—Pearl River County Airport site. The name of the new airport is Picayune Municipal Airport. Area Navigation (RNAV) Runway (RWY) 18 and RWY 36 Standard Instrument Approach Procedures (SIAP) have been developed for Picayune Municipal Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP at Picayune Municipal Airport.

DATES: Comments must be received on or before September 18, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–28, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be

submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–28.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Picayune, MS. The Picayune—Pearl River County Airport has closed and a new airport has been established approximately 3.5 miles southeast of the Picayune—Pearl River County Airport site. The name of the new airport is Picayune Municipal Airport. RNAV RWY 18 and RWY 36 SIAPs have been developed for Picayune Municipal Airport. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs at Picayune Municipal Airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows: Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO MS E5 Picayune, MS [Revised]

Picayune Municipal Airport, MS
(Lat. 30°29′15″N, long 89°39′04″W)

That airspace extending upward from 700 feet or more above the surface within a 6.5-mile radius of the Picayune Municipal Airport; excluding that airspace within the Bay St. Louis, MS, Class E airspace area and that airspace within the Slidell, LA, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on July 26, 2000.

Marvin A. Burnette,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–19837 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 1997–2234 (formerly 87–5 and 89–12)]

RIN 2125–AC30

Truck Length and Width Exclusive Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is requesting comments on proposed criteria for excluding safety or efficiency enhancing devices from measurement of vehicle length and width.

All previous interpretations related to exclusions from measurements of vehicle length and width would be superseded to the extent they are inconsistent with these regulations.

DATES: Comments must be received on or before November 16, 2000.

ADDRESSES: Mail or hand deliver comments to docket number 1997–2234, U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or print the acknowledgment page after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Klimek, Office of Freight Management and Operations, (202–366–2212); or Mr. Charles Medalen, Office of the Chief Counsel (202–366–1354), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filling

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202)512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

Section 411(h)of the Surface Transportation Assistance Act of 1982 (STAA) (Public Law 97–424, 96 Stat. 2097) gave the Secretary of Transportation (Secretary) authority to exclude from the measurement of vehicle length any safety and energy conservation devices found necessary for the safe and efficient operation of commercial motor vehicles (CMVs). That authority is now codified at 49 U.S.C. 31111(d). Section 416(b), now 49 U.S.C. 31113(b), authorized similar exclusions when measuring vehicle width. Section 411(h) also provided that no device excluded from length measurement by the Secretary could have, by design or use, the capability to carry cargo.

Since enactment of the STAA, four **Federal Register** notices have identified some 55 devices as length or width exclusive. Copies of all of them are available on-line under the FHWA docket number cited at the beginning of this document. (See 52 FR 7834, March 13, 1987; 54 FR 52591, December 26, 1989; 55 FR 10468, March 21, 1990; and 55 FR 25673, June 22, 1990.)

Prior to 1979, the FHWA operated under an administrative definition of the term ''vehicle'' that included the main structure of the vehicle with attachments unless an exception or tolerance was allowed by State law as of July 1, 1956. The width limit for trucks and buses at that time was 96 inches (2.44 meters) on the Interstate System, as established by the Federal-Aid Highway Act of 1956 (Public Law 84–627, 70 Stat. 374, at 381). However, it was the practice of the States to allow certain exceptions to that limit for mirrors, hand holds, and turn signals. The maximum width limit of buses was increased from 96 inches (2.44 meters) to 102 inches (2.6 meters) by the Federal-Aid Highway Act of 1976 (Public Law 94–280, 90 Stat. 425, at 438).

The States' practice of allowing exceptions to the width limit was acknowledged and endorsed in the American Association of State Highway Officials' (AASHO) 1963 ''Recommended Policy on Maximum Dimensions and Weights of Motor Vehicles to be Operated Over the Highways of the United States.'' Width was defined as follows:

> *Width:* The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding approved safety devices and tire bulge due to load.

This definition has been part of AASHO, now the American Association of State Highway and Transportation Officials (AASHTO), recommended practice since it was adopted in 1963. The difference between the AASHO/AASHTO recommended policy and the FHWA's administrative interpretation generated inquiries which were answered in a Notice of Interpretation (NOI) published on June 28, 1979 (44 FR 37710). The FHWA adopted the AASHO/AASHTO definition of width and allowed the States to exclude certain safety devices from the measurement of a vehicle's width. These consisted of load-induced tire bulge, rearview mirrors, turn signal lamps, and hand holds for cab entry/egress. A subsequent NOI published on January 2, 1981 (46 FR 32), allowed States to expand the list of safety devices which could extend beyond the 96-inch (2.44-meter) load surface. A final rule published on June 5, 1984 (49 FR 23302) and codified in part 658, reiterated the FHWA's previous policy of allowing States to exclude from vehicle width measurements those safety devices that do not extend more than 3 inches (76 millimeters) from either side. The rule interpreted the 102-inch width limit to include its approximate metric equivalent of 2.6 meters. In addition, it defined length exclusive devises as all non-cargo carrying appurtenances at the front or rear of a CMV semitrailer or trailer whose function is related to the safe and efficient operation of the semitrailer or trailer.

Two additional NOI's on length and width exclusive devices were issued on January 13, 1986, (51 FR 1367) and on March 13, 1987 (52 FR 7834). While these documents remain active, they simply represent FHWA's interpretations of statutory provisions and have no binding regulatory effect, either on the States or the motor carrier industry.

The January 13, 1986, NOI specifically excluded from any length measurement 6-inch and 8-inch (152mm and 203mm) front locking devices (bolsters) and a 12-inch (0.30-meter) rear lift tailgate in the ''up'' position. The NOI declined to exclude a 7-foot (2.13-meter) front trailer frame extension from length measurements on grounds that it was load bearing, but reiterated that this did not necessarily preclude its use because States could recognize it as a length exclusive device.

The March 13, 1987, NOI held that lift gates not over 24 inches (0.61 meters) from the rear of the trailer in the ''up'' position, B-train assemblies, and about 35 other devices qualified as length or width exclusive devices. It also provided that the width of a trailer be measured across the sidemost load-carrying structures, support members, and structural fasteners, and that the length of a semitrailer be measured from the front vertical plane of the foremost transverse load-carrying structure to the rear vertical of the rearmost traverse load-carrying structure.

The STAA required States to allow 102-inch (2.6-meter) wide CMVs on the National Network (NN). The NN consists of the Interstate System and other highways designated in 23 CFR part 658, appendix A. Hawaii, however, was allowed to keep its 108-inch (2.74-meter) width limit.

In addition, the STAA set minimum length limitations for semitrailers operating in a truck tractor-semitrailer combination on the NN. The States were required to allow semitrailers with a length of 48 feet (14.63-meters), unless the State allowed a longer semitrailer on December 1, 1982. In that case, the longer length was grandfathered and the State must continue to allow the use of semitrailers up to that length on the NN. A list of grandfathered semitrailer lengths is published in 23 CFR part 658, appendix B.

The minimum length limit for each semitrailer or trailer in a truck tractor-semitrailer-trailer combination was established at 28 feet (8.53 meters), or 28.5 feet (8.69 meters) if in legal operation on December 1, 1982, within an overall length of 65 feet (19.81 meters). States may not limit the overall length of a truck tractor semitrailer, or

truck tractor-semitrailer-trailer combination, on the NN.

Pursuant to its authority under section 411(d) of the STAA, the FHWA designated several CMV combinations with unique characteristics as ''specialized equipment'' and established length parameters for their operation on the NN. The most common of these specialized vehicles are automobile transporters. Minimum length limits established include 65 feet (19.81 meters) for standard automobile transporters and 75 feet (22.86 meters) for stinger steered units, i.e., the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

Boat transporters are also allowed the same lengths based on the fifth wheel connection location. In addition, all automobile and boat transporters are allowed cargo overhangs of up to 3 feet (0.91 meters) in front of the truck tractor and 4 feet (1.22 meters) beyond the rear of the semitrailer.

Other combinations considered specialized equipment include truck tractor-semitrailer-semitrailer vehicles with a ''B-train'' connection, Maxi-cubes, and beverage semitrailers. The length requirements established for these combinations are described in 23 CFR 658.13.

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102–240, 105 Stat. 1914, established a minimum length limit for buses of 45 feet (13.72 meters) on the NN. There are no Federal laws or regulations regarding the length of straight trucks.

The ISTEA also prohibited the States from allowing the cargo-carrying units of CMVs with two or more such units to exceed the length allowed and in actual use on the NN on June 1, 1991. It also provided that the length of the cargo-carrying units is to be measured from the front of the first unit to the rear of the last unit. These provisions did not affect the authority of the Secretary to exclude devices from the measurement of length and width if the vehicles are subject to Federal size requirements.

Today's proceeding was originally initiated through an advance notice of proposed rulemaking (ANPRM) issued on December 26, 1989 (54 FR 52951), which requested information on a series of issues. The comment period, originally established at 90 days, was subsequently extended to August 21, 1990 (55 FR 25673). After considering the comments received in response to the ANPRM, the statutory language on length and width exclusive devices in 49 U.S.C. 31111(d), 31113(b), and developments in the industry since 1990, the FHWA is proposing regulatory changes to 23 CFR part 658. The FHWA is requesting comments on proposed criteria for excluding safety or efficiency enhancing devices from measurement of vehicle length and width.

In 1997, the FHWA rearranged its docket system in accord with the electronic system adopted by the Department of Transportation. A new docket was established to receive the information with the number FHWA Docket 1997–2234. Material previously submitted to Docket Nos. 87–5 and 89–12 was transferred and scanned into FHWA Docket 1997–2234.

Sixty-eight comments were submitted in response to the ANPRM (FHWA Docket Nos. 87–5 and 89–12). Those commenting fell into the following groups: States—17, automobile transporter companies—14, trade associations—6, trailer manufacturers—5, bus and truck manufacturers—4, tarp and tarp hardware manufacturers—3, individuals—3, port authorities—1, carpet manufacturer—1, walkway and platform manufacturers—1, employees union—1, U.S. Government agencies—1, and comments relating to extending the comment period—2. Several respondents commented more than once.

Questions in the ANPRM and Comments from Respondents

The ANPRM asked the following questions:

1. What are the safety and enforcement implications of (1) Requiring that certain categories of vehicle components be included in a length or width measurement; and (2) allowing a blanket exclusion for other devices extending no more than 3 inches (76 millimeters) beyond the outer dimensions of the components that must be included in length and width measurements?

Seven States supported the concept, while seven did not. The Indiana State Police favored a blanket exclusion over a list of specific devices. The KansasDOT felt that all devices should be limited to 3 inches (76 millimeters). The Traffic Division and the State Police of Maine favored a 12-inch (0.30-meter) exclusion for non cargo-carrying devices at the rear of a trailer and an exclusion for devices which do not extend beyond the swing radius in front of a semitrailer or trailer. The Michigan DOT and the Oregon DOT felt that a 3-inch (76-millimeter) width exclusion should cover all devices except turn signal lamps and mirrors. The Minnesota DOT had no objection to a blanket 3-inch exclusion. The Virginia DOT accepted the 3-inch band concept, but preferred specific items over a blanket exclusion. The Florida DOT indicated that the proposal would increase uniformity, but degrade safety. The Georgia DOT felt that no new devices should be excluded. The Iowa DOT pointed out that a 3-inch (76-millimeter) exclusion would effectively legalize a 108-inch width (2.74 meter). The North Carolina Division of Motor Vehicles felt that no exclusion should be adopted for width, but a 24-inch (0.61-meter) length exclusion could be adopted at the front and rear of semitrailers and trailers. The Pennsylvania DOT favored determining excluded devices on a case-by-case basis. The Vermont DOT felt that the 3-inch (76-millimeter) exclusion should only be for safety and not efficiency enhancing devices and that excluded devices should be determined by cooperative State action and not Federal mandates. The Washington DOT opposed the concept, fearing it would encourage wider vehicles.

The U.S. Environmental Protection Agency (EPA) favored the 3-inch (76-millimeter) general width exclusion on each side and also favored allowing up to 8 inches (203 millimeters) on each side [a total of 16 inches overall (406 millimeters)] for energy conserving devices. The 8-inch (203-millimeter) exclusion on each side would apply only on a case-by-case basis in anticipation of new designs in innovative technology.

Five trade associations favored the proposal, as did two trailer and two truck manufacturers. Navistar International Transportation Corporation (NAVISTAR) stated that the 3-inch (76-millimeter) exclusion should extend from the maximum allowable width of a vehicle and not from the actual width of the vehicle, if less.

The Port Authority of New York and New Jersey opposed the proposal because some NN highways in the port area have lanes less than 12-feet (3.66-meters) wide.

Most of the respondents recognized the advantages of a general exclusion over specific exclusions from the measurement of vehicle length and width. Their principal concern was that this would somehow result in longer and wider vehicles. However, the idea that some accommodation must be provided for devices exceeding the maximum vehicle width and length was recognized in the STAA, which gave the Secretary authority to provide exemptions. In addition, the proposed rule specifies that excluded devices must be non-cargo carrying.

2. What other alternatives are there for simplifying the present process for determining which devices should be

included or excluded when measuring the length or width of a vehicle?

Three States responded to this question. The California DOT observed that trailer manufacturers have designed for maximum width, with no allowance for protection of the load or trailer. The Georgia DOT suggested that only safety devices be excluded from width measurements, although both safety and operational devices could be excluded from length. The Nebraska State Patrol suggested that safety devices be clearly defined.

Four motor carrier respondents emphasized that any loss of trailer length or width would be detrimental to them and the economy. The Specialized Carriers & Rigging Association (SC&RA) suggested a general exclusion supplemented by specific exclusions for devices which could exceed the general exclusion. It further suggested an advisory committee to make recommendations to eliminate interpretation problems and determine which devices to exclude from length and width measurements. The American Trucking Associations (ATA) indicated that there was no way to simplify the process, that it should remain on a case-by-case basis. Navistar and Mack Trucks, Inc. (MACK) suggested that safety devices which could extend more than 3 inches (76 millimeters) from the side of a vehicle should be specifically listed. Navistar suggested that access steps should be included as a safety device.

The commenters recognized that unless vehicles were manufactured to include necessary safety and efficiency enhancing devices within maximum width and length limits, some exclusions from the measurement of length and width of vehicles would be necessary.

3. The following are possible categories for components of trailers: (1) Structural (needed to support or convey the load), (2) load protection, (3) protection of trailer components, and (4) vehicle safety. Are there any other categories that would be useful for determining whether a device should be included or excluded from a length or width measurement?

Of the six State DOT's that commented on this question, Missouri and Oregon favored the existing components. Iowa wanted aerodynamic devices to be excluded as a measurable vehicle component, while Minnesota wanted devices for loading and unloading vehicles excluded. California wanted to exclude load protection devices or devices that protect trailer components. Florida wanted to exclude rub rails and vehicular visibility enhancements from components to be measured in determining vehicle length.

The ATA suggested that attempting to specify additional components would only lead to debates over semantics. The SC&RA suggested that trailer components should be considered in four categories: (1) Structural (needed to support or convey the load), (2) load protection, load holding, and load securement, (3) protection of vehicle components, and (4) vehicle, driver, and public safety.

This question may have been confusing. It was intended to determine what components are integral parts of a trailer and should be included in its measurements. While it is clear that structural components should be included in the measurement of trailer dimensions, it appears that the other categories proposed by the SC&RA are not integral trailer components, but are devices to be included as needed. We believe that the proposal to include in the measurement of length and width all components of a vehicle which are not excluded is the simplest and easiest to apply. In addition, this NPRM proposes that an aerodynamic device at the front or rear that is an integral part of a semitrailer or trailer would be included in the measurement of its length unless it is a length exclusive device.

4. How would the proposed approach or an approach offered in response to question number 2 impact: Vehicle manufacturers? Motor carriers? Shippers? Highway operations?

Eight State DOT's and two truck manufacturers commented on this question. Georgia, Oregon, and Virginia recognized that a blanket exclusion would reduce confusion as to what devices were excluded. Florida said that eliminating length or width exclusions would result in reductions in cargo space in order to accommodate devices formerly excluded. California felt that it might need to reevaluate the routes available for large trucks. Iowa, Minnesota, and Nebraska felt that the impact would be unfavorable.

Navistar felt that a 3-inch (76-millimeter) exclusion would allow greater flexibility in designing devices, and Mack felt that the effect would depend on what devices were exempted from the 3-inch (76-millimeter) limit.

The responses to this question were general in nature. There are at least 10 devices which, under current Federal interpretation, may extend up to 3 inches (76 millimeters) beyond the 102-inch (2.6-meter) width of trailers, and States may allow additional safety devices to extend up to 3 inches (76 millimeters). The proposed exclusion is similar but will merely mean that new devices will be automatically excluded and not have to go through a rulemaking process.

5. Under existing Federal regulations, States must exempt specified devices from the measurement of vehicle length and width. They may exempt safety devices that do not extend more than 3 inches (76 millimeters) from the side of a vehicle. Does the problem of determining what new devices should be exempted from length and width measurements warrant further preemption of State authority by requiring them to allow a blanket 3-inch (76-millimeter) exemption?

Ten State DOT's, two trade associations, two truck manufacturers, and one employee union responded to this question. Maine, Minnesota, and Nebraska agreed that a 3-inch (76-millimeter) exclusion was justified. Vermont felt that exclusions should be determined by cooperative State action. Connecticut and Missouri opposed a blanket 3-inch (76-millimeter) exclusion. Virginia felt preemption was justified only if State laws or regulations were unreasonable. Iowa and Georgia were concerned about the safety of a blanket 3-inch (76-millimeter) exclusion. California favored individual over blanket exclusions.

The ATA, SC&RA, Navistar, and Mack favored Federal preemption. The International Brotherhood of Teamsters worried about the safety of trucks growing to 108 inches (2.74 meters).

The commenters generally accepted that some devices must extend beyond the structural elements of a vehicle. Since publication of the 1987 NOI, the 3-inch band for width exclusion has evolved into a national ''standard'' generally followed by States and the industry.

6. Current regulations provide that the length of a semitrailer and a full trailer is to be measured from the front vertical plane of the foremost transverse load-carrying structure to the rear vertical plane of the rearmost transverse load-carrying structure. Current regulations also provide that the width of a trailer is measured across the sidemost load-carrying structures, support members, and structural fasteners. Should these regulations be clarified and if so, how?

Note: The ''regulation'' in question 6 was in fact the NOI published on March 13, 1987, which, as stated earlier, represents the FHWA's interpretation of statutory language, but is not binding in its application.

Six State DOT's, two carrier associations, one trailer manufacturer, and the EPA commented. Florida and Iowa felt that no clarification was needed. Oregon suggested that trailer

lengths should be measured ''from the front of the foremost structural or load bearing member to the rearmost structural or load bearing member.'' It had no comment on how widths should be measured. Georgia and Nebraska felt that the measurements should be from the outermost trailer extremities, and Michigan merely criticized the existing definition.

The EPA said that ''cargo carrying structure'' is more understandable than ''structural element.'' Lufkin, a trailer manufacturer, suggested that vehicles should be measured against an imaginary box of legal dimension, while the SC&RA felt the matter should be studied by an advisory committee. The ATA favored a manufacturer's certification that the vehicle was of legal dimensions as a way of taking the responsibility for measurements off field enforcement personnel.

We believe that the proposal to measure all parts of a vehicle, except those excluded from measurement, is the simplest and easiest to apply. Even if the ATA's suggestion was adopted, manufacturers would have to know how to measure a trailer. The concept of measuring against an imaginary box would have pragmatic application problems. Many of the size variances which prompt enforcement action are relatively small with respect to the overall size of the vehicle, *i.e.,* a few inches versus 48-feet long or 8-feet 6-inches wide. It is quite likely that many violations would be missed as a vehicle could appear to be ''legal'' yet actually be far enough out of ''square'' to be in violation.

7. There are no regulations on how buses or other commercial vehicles are to be measured. Are they needed? If so, how should they read?

Eleven State DOT's, two carrier associations, one bus manufacturer, and one trailer manufacturer commented.

California and Indiana felt this should be left to the States. Iowa, Minnesota, and Oregon reported no problems measuring buses. Nebraska and North Carolina felt that all CMV's, including buses, should be measured the same. Michigan believes that regulations should be adopted, while Florida believes they are not needed. Virginia suggested that buses should be measured from the front vertical plane to the rear vertical plane. Georgia believes that buses should not exceed 102 inches (2.6 meters) in width except for mirrors.

Lufkin Industries Inc. and Flxible Corporation believe that regulations should be adopted. The ATA favored a manufacturer's certification as a substitute for field measurements, while the SC&RA supported the development of standards by the FHWA for measuring all vehicles.

Section 4006(b)(1) of the ISTEA amended section 411(a) of the STAA [49 U.S.C. 31111(d)] to require States to allow buses up to 45-feet (13.72-meters) long on the NN. The FHWA is proposing to measure buses the same as other vehicles, *i.e.,* including all parts except those excluded from measurement.

Another issue which has developed, specifically with respect to buses, is whether the measured length should include or exclude bumpers. In establishing the 45-foot length requirement for buses, the Congress was silent on the subject. Existing regulatory language is also silent on the issue as the definition of length exclusive devices in 23 CFR 658.5 refers generally to ''all appurtenances at the front or rear of a commercial motor vehicle semitrailer, or trailer''. Buses are not specifically mentioned in the definition, yet they are commercial vehicles. The only relevant guidance is that provided in the March 13, 1987, NOI. The drawings included in that document to demonstrate trailer length exclude a ''resilient bumper block'' at the rear of a semitrailer while including a ''non-resilient bumper''.

While revising their statutes to reflect the Federal requirement for 45-foot buses, some States have adopted a limit inclusive of bumpers, some a limit excluding bumpers, and many a 45-foot limit with no further qualification of the issue.

Consistent State-to-State treatment of STAA vehicles is the primary goal of Federal legislation in this area. In recent years, however, different State policies on bus bumpers have caused compliance problems for operators.

For these reasons, this proposal would allow States to exclude from the length measurement of a commercial vehicle, including buses, resilient bumpers up to 6 inches out from the front and rear of the vehicle. Resilient bumpers would include devices made from any material which can be deformed by impact, and substantially return to its original shape immediately upon disengagement with the item impacted. While the genesis of this issue has involved buses, the application to all commercial vehicles will match what is indicated in the NOI of March 13, 1987, and not make illegal any vehicles operating under the 1987 guidance on resilient bumper blocks.

8. Should there be a limit on how far a width exclusive device may extend, if more than 3 inches (76 millimeters), from the side of a vehicle (*i.e.,* rearview mirrors, turn signal lamps, hand holds for cab entry and egress, and splash and spray suppressant devices)? If so, what should the limit be?

Twelve State DOT's, three trade associations, four truck or trailer manufacturers, one bus manufacturer, and one motor carrier responded. Florida, Maine, and Missouri did not support a limit on the length of mirrors. They felt mirrors should be as wide as necessary. Maine said there would be no reason for them to extend further than necessary, and Navistar said that weight, vibration, and aerodynamics would limit the extension of safety devices to no more than necessary. Michigan favored making mirrors retractable. Of these ten commenters, six also would not limit the lateral extension of turn signal lamps.

Indiana favored a 12-inch (0.30-meter) limit for mirrors, 6 inches (152 millimeters) for turn signal lamps, 4 inches (102 millimeters) for hand holds for cab entry/egress, and 3 inches (76 millimeters) for splash and spray suppressant devices. Virginia also favored a 12-inch (0.30-meter) limit for mirrors, provided they were mounted on collapsible holders. California and Minnesota favored a 10-inch (254-millimeter) limit for mirrors. The Port Authority of New York and New Jersey favored an 8-inch (203-millimeter) limit for mirrors, Iowa favored a 6-inch (152-millimeter) limit provided they were a hinged or a breakaway design, Oregon and Nebraska favored a 5-inch (127-millimeter) limit, and Georgia, Missouri, and Central Freightlines favored a 3-inch (76-millimeter) limit. The ATA felt that the length of mirrors should be considered by an advisory committee. The National Truck Equipment Association, SC&RA, Freightliner, Navistar, Mack, Lufkin, and Flxible felt that in addition to mirrors and turn signal lamps, hand holds for cab entry/egress and splash and spray suppressant devices should not be subject to specific length limits.

Rearview mirrors are essential to the safe operation of CMVs. The National Highway Traffic Safety Administration (NHTSA) requires vehicle manufactures to install outside mirrors when the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear (49 CFR 571.111). The Federal Motor Carrier Safety Administration (FMCSA) requires motor carriers operating CMVs in interstate commerce to maintain these mirrors (49 CFR 393.80). However, neither the NHTSA nor the FMCSA have requirements concerning the distance the mirror may extend beyond the sides of CMVs. Many commenters to the

ANPRM favored the establishment of a restriction on the distance a review may extend beyond the sides of CMVs, but differing on the value. The distances mentioned ranged from 3 to 12 inches (25.4mm to 0.30 meters). Two commenters suggested that mirrors be of a hinged or breakaway design. No commenters provided support for the distance they suggested, or why hinged or breakaway designs should be required.

The FHWA believes that mirrors must extend far enough from the side of the vehicle to provide a reasonably unobstructed view to the rear of the vehicle, yet not so far that a driver cannot easily adjust the mirror as necessary. Most mirror designs extend more than 3 inches (76 millimeters) beyond the sides of the vehicle, and a 12 inch (0.30-meter) distance was the maximum requested by commenters. The FHWA believes 12 inches (0.30 meter) is a reasonable maximum distance for mirrors to extend from the side of a CMV and is proposing a 12-inch maximum (0.30-meter). There is no safety data to indicate that motor carriers operating CMVs with mirrors extending to the 12-inch distance are having difficulty operating these vehicles on the NN.

9. Are there any devices on trailers manufactured between 1983 and 1987 that would be eliminated by the proposed regulations? If so, what are they? Should they be grandfathered? What should the grandfather date be?

Eight State DOT's, three trade associations, and two trailer manufacturers commented. Florida, Nebraska, Virginia, and the SC&RA said that either there should be no permanent grandfathers or that they were not aware of any. California and Iowa said that no illegal devices should be grandfathered. Georgia, Kansas, and Oregon said that there should be no permanent grandfathers but only equipment grandfathers, and those for not more than 2 or 3 years.

The Truck Trailer Manufacturers Association, Lufkin, and Kolstad Company said that devices on trailers manufactured before any new regulations become effective should be grandfathered. The ATA, who favored self-certification by trailer manufacturers, agreed.

We are unaware, at this point, of any devices that exceed the limits proposed to be allowed. Consideration will be given to grandfathering any devices that are pointed out to us in comments to this NPRM. In addition, any unauthorized new devices that may exceed the limits proposed in this rulemaking may be considered for exclusion from length or width measurement. Sufficient justification should be provided in either case to determine if it would be appropriate to exclude them from the measurement of vehicle length or width.

Miscellaneous Docket Comments

There were miscellaneous comments from several State DOT's. Kansas suggested that regulations for length and width exclusive safety devices should be included in the Federal Motor Carrier Safety Regulations for ease of enforcement. Michigan said that if a long vehicle scraped another vehicle on a turn without the driver being aware of it, leaving the scene of the accident would be a felony offense that could cost the driver his/her license. However, a driver who was unaware of an accident and who had not acted in wanton and willful disregard for the consequences of his/her action would not have the requisite intent to sustain a felony conviction. In any event, this would be true for a vehicle of any length or width.

California, Iowa, and Virginia urged that consideration be given to a hinged or breakaway design for excluded devices. This is unnecessary as excluded devices are not made sturdier than necessary since this would add to the tare weight of the vehicle. Furthermore, inertial forces would render an underdesigned hinged or breakaway design ineffective if a vehicle was moving at more than a minimum speed.

Missouri asked if a 4-foot 11-inch (1.50-meter) front extension on trailers used to haul test vehicles was excluded from length measurement. Automobile transporter combinations are subject to a minimum overall length limit on the NN. States must allow them to be that long but are not required to allow them to be longer. States would have to allow attachments on automobile transporter trailers within the overall length limit provided they were not unsafe.

The ATA, National Industrial Transportation League, Moore's Lumber and Building Supplies, Watkins Shepard Trucking, Inc., Churchill Truck Lines, Inc., and Comcar Industries, Inc., believe that manufacturing, operational, and maintenance tolerances should be adopted. They pointed out that thermal expansion, variations in structural components, and operational bending and twisting could all cause trailers to exceed legal measurements. Also fifth wheel height, differences in suspension components, and tire inflation can all cause trailers to tilt, lean, or both. Repairs, such as external ''fish plate'' repairs to bottom rails or reinforcements for intermodal operations and side doors, are all necessary for efficient trailer operations.

Since there is no authority in the STAA to exclude structural or load-carrying components from length and width measurements, manufacturing tolerances for these components would be inconsistent with the statute. We will not propose any such tolerance. The alleged need for operational tolerances involving lean, tilt, or twist can be removed by requiring that measurements be made from the same point on each side, or at the front and rear of the vehicle. This is reflected in the proposed regulations.

Structural repairs and reinforcements for side doors or intermodal operations, while incidentally load supporting, have as their primary purpose repairing or adapting trailers to other uses, thereby increasing their efficiency. Therefore, we are proposing to consider structural repairs and structural reinforcements for side doors and intermodal operations as width exclusive devices and allowed to extend 1 inch (25.4 millimeters) on either side of the vehicle beyond the components to be included in width measurements. However, at the locations where these structural reinforcements have been added, the 3-inch (76-millimeters) overall exclusion would still apply to the basic 102-inch (2.6-meters) unit width. The 3-inch (76-millimeters) band would be inclusive of the 1-inch (25.4-millimeter) reinforcement and not additive.

The National Automobile Transporters Association and fourteen individual automobile transporters wanted load-carrying tiedowns or ''flippers'' to be excluded from length measurements.

The STAA authorized the FHWA to adopt rules to accommodate automobile transporters on the NN. Under that authority, the FHWA required States to allow automobile transporters to be a minimum of 65 feet (19.81 meters) in overall length [75 feet (22.86 meters) if stinger-steered], plus cargo overhangs of up to 3 feet (0.91 meters) in front of the truck tractor and 4 feet (1.22 meters) beyond the rear of the semitrailer. These overhangs are not length exclusive devices, but are simply operating rights created for, and limited to, this specialized equipment. The need for overhangs is an illustration of why the Congress authorized special treatment for these vehicles.

In order to load modern automobiles, many with bodies that extend only a short distance beyond their front and rear axles, to the full extent of the allowed overhangs, automobile

transporters must use retractable platforms to position and secure them. Although not explicity authorized in our existing regulations, their use is consistent with the implementation of regulations allowing cargo overhangs. Therefore, we propose to amend 23 CFR 658.13(e) to clarify that retractable platforms or ''flippers'' are not to be included in the length determination of automobile transporters when positioning and securing assembled highway vehicles, provided that when being used, the platforms (or flippers) themselves do not extend more than 3 feet (0.91 meters) beyond the front of the auto transporter, or 4 feet (1.22 meters) beyond the rear of the semitrailer. However, when not being used to secure vehicles, they must be retracted since they are not cargo, do not provide a mount for or restrain cargo, and thus serve none of the intended purposes of the overhang provision. It is not necessary to consider if they should be excluded from measurement of the length of automobile transporters plus overhangs since they do not extend beyond the minimum lengths that States must allow.

One automobile transporter who responded to the ANPRM also wanted an exclusion for a step to extend 4 inches (102 millimeters) in front of the front bumper of the cab of automobile transporter vehicles. This would enable the driver to stand on the step while tying down cargo on the power units. The proposed 3-inches (76-millimeter) exclusion would cover such devices. Transporters who believe a 4-inch step surface is necessary could partially recess the step into the bumper to obtain the extra inch of width.

The EPA and one individual wanted the FHWA to establish a point of contact for equipment innovators to learn about length and width exclusions. The Size and Weight Team Leader [currently Mr. Klimek (202–366–2212)] in the Office of Freight Management and Operations is the agency's contact for questions of that kind.

World Carpets wanted up to a 6-inch (152-millimeter) width exclusion on each side of a trailer for bulge due to load. Strick Trailers said that loads, such as carpets, bulk grain, bagged livestock feed, and others press against the side of a trailer and bow it as much as 7.5 inches (191 millimeters). Load-induced bulges in the sides of a trailer are neither safety nor energy conservation devices and therefore are not covered by the proposed exclusion.

A manufacturer of external work platforms for cattle trailers requests exclusion of the platform for safety reasons which will extend 2½ inches (64 millimeters) from the load bearing vertical trailer ribs when folded in the up position. This platform is included in the proposed exclusion band.

One tarp and tarp equipment manufacturer proposed that no exclusion be allowed for tarps and tarp hardware since its system did not exceed applicable width limits, while two others advocated up to a 5-inch (123-millimeter) exclusion. We believe that tarps, tarp hardware, and complete tarping systems can be accommodated within a 3-inch (76-millimeter) exclusion. This would be the case even if the system being considered included a component piece (*e.g.*, headboard, frame, etc.) of a width equal to that of the vehicle itself plus up to 6 inches. Assuming the component is not also intended or designed to meet the front-end structure requirements of 49 CFR 393.106, and is properly centered as part of the installation process, the net effect would remain that no part of the device would extend beyond 3 inches from the measured width of the vehicle. Also allowed would be transition pieces or ''wings'' between a front-end structure which is designed to meet the requirements of 49 CFR 393.106 (and limited to 102-inches wide), and the movable portion of a tarping system. However, for these wings to remain eligible for width exclusion, they must: (1) Not extend more than 3 inches (76 millimeter) from the side of the bulkhead, (2) not be attached to any other cargo-carrying or supporting part of the flatbed structure, and (3) remain as an add-on piece as opposed to building a single piece bulkhead up to 108-inches wide. This would apply to tarping systems for open-top trailers that are used (1) to protect the cargo from weather and vandalism, (2) prevent the contents of a vehicle from spilling onto the road, and (3) tarping systems that when deployed enclose the cargo carrying area of a flatbed. All three eliminate the need for drivers to climb onto the vehicle in order to position and fasten these coverings.

Other Issues

Section 411(h) of the STAA reads as follows:

> The length limitations described in this section, shall be exclusive of safety and energy conservation devices, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigerator units or air compressors * * *.

Refrigeration units and air compressors are usually mounted on the front of trailers and were, therefore, intended to be length exclusive. All of the rest were intended to be width exclusive.

Rear view mirrors, turn signal lamps, hand holds for cab entry/egress, splash and spray suppressant devices, and load-induced tire bulge have been identified as width exclusive devices in 23 CFR 658.5 but with no limit on how far they may extend beyond the side of a vehicle. The FHWA policy announced in the 1987 NOI allows a 3 inch (76 millimeter) width limit for marker lamps. In addition, prior regulations have not explained how far steps and hand holds for entry and egress, flexible fender extensions and mudflaps may extend beyond the side of a vehicle.

Except for mirrors and turn signal lamps, we believe the lateral extension of all these devices should not exceed 3 inches (76 millimeters). We therefore propose not to provide a specific exclusion for these devices but to leave them subject to the general 3-inch (76-millimeter) width exclusion.

We also propose to apply a general rule to refrigeration units and air compressors, *i.e.*, they will be excluded from measurement of vehicle length insofar as they do not extend beyond the swing radius in front of a semitrailer or trailer. Again, no specific exclusion will be provided. We would be interested in any comments concerning whether this will accommodate the newer refrigeration units which are wider and flatter.

In response to section 414(a) of the STAA, the NHTSA and the FHWA opened companion rulemaking proceedings, the former applicable to new vehicles, the latter to those already in service, to prescribe minimum standards for the performance and installation of splash and spray suppressions devices. Both proceedings were terminated on grounds that no available technology had been demonstrated to reduce splash and spray significantly [53 FR 18860 (FHWA), 18861 (NHTSA), May 25, 1988]. However, the devices tested by the NHTSA did not increase splash and spray, and probably helped to prevent truck tires from throwing gravel and other road debris into the path of other vehicles. Since mudflaps are required by many States, we propose to include within the 3-inch (76 millimeter) blanket exclusion all devices intended to reduce splash and spray or to block or contain debris kicked up by tires.

States may allow a semitrailer or trailer longer than the minimum length required by the STAA to operate on the NN. They may also issue permits allowing vehicles to exceed the 102-inch (2.6 meter) width limit on the NN.

In those cases, the length-and-width-exclusions proposed by this NPRM would not apply: the Federal government does not have jurisdiction to regulate non-STAA vehicles, and the States may impose any conditions they wish on the use of overwidth permits, including complete prohibition of width-exclusive devices. Nonetheless, the Federal Motor Carrier Safety Regulations (in particular 49 CFR part 393, Parts and Accessories Necessary for Safe Operation) generally apply to all CMVs (as defined in 49 CFR 390.5) operated in interstate commerce irrespective of their length or width.

The ISTEA length freeze applies only to cargo-carrying units, not to length exclusive devices which are prohibited from carrying cargo.

Aerodynamic Devices

The 1987 NOI suggests that aerodynamics devices up to 5-feet (1.52 meters) long be excluded from vehicle length measurement. Four individuals wanted an exclusion for aerodynamic devices extending beyond the 5 feet (1.52 meters) and one asked for an exclusion of up to 8 feet (2.44 meters). The discussion in the NOI required that aerodynamic devices not obscure tail lamps, turn signals, marker lamps, identification lamps, license plates or any other required safety devices, such as hazardous materials placards. Regulations published at 49 CFR 393.3 require that any additional equipment or accessories not decrease the safety of operation of the CMVs on which they are attached. This would include the effect of splash and spray on following or passing vehicles, the effect of aerodynamic buffeting on passing vehicles, and any hazards posed by the device if the vehicle on which it was attached was in an accident.

The purpose of aerodynamic devices is to increase fuel economy. We recognize that this is critically important to the Nation's transportation system. However, solid aerodynamic devices or those which include a rigid frame may pose a danger in case of crashes where vehicle underride is a factor.

Because of FHWA's concern about any solid or rigid frame aerodynamic devices being attached to the rear of trailers, such as panels on each side of the rear of the trailer and hinged metal plates extending beyond the rear of the trailer, no exclusions for solid or rigid devices are proposed in this rulemaking. New technological advances would be considered on a case-by-case basis. At a minimum, such requests would have to include sufficient information to demonstrate clearly that they would be safe under all highway conditions that might be encountered.

There are no similar concerns for aerodynamic devices made of flexible material, inflated by air pressure and which have no rigid structure. They would have to comply with 49 CFR 393.3 which requires that any additional equipment or accessories not decrease the safety of the vehicle on which they are attached.

We propose to exclude flexible aerodynamic devices up to 8 feet (2.4 meters) in length from the measurement of vehicle length.

Any aerodynamic device attached to the rear of a vehicle must also comply with the conspicuity requirements.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination using the docket number appearing at the top of this document in the docket room at the above address. We will file comments received after the comment closing date in the docket and will consider late comments to the extent practicable. We may, however, issue a final rule at any time after the close of the comment period. In addition to late comments, we will also continue to file, in the docket, relevant information becoming available after the comment closing date, and interested persons should continue to examine the docket for new material.

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

We have determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), we have evaluated the effects of this rule on small entities. The FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities. This action merely replaces a list of specific devices that may extend beyond the structural members of a vehicle with a general rule covering how far devices may extend beyond the structural members of vehicles.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined that this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. While aspects of this document directly preempt State law and or regulation, the practical effect is to simply codify what has evolved into standard practice by the States and industry since enactment of the STAA in 1983.

Executive Order 12372 (Intergovernmental Review)

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.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has reviewed this proposal and determined that it does not contain collection of information requirements for the purposes of the PRA.

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting 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. (2 U.S.C.1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The agency has analyzed this action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grants program—transportation, Highways and roads, Motor carrier—size and weight.

Issued on: August 11, 2000.

Walter L. Sutton, Jr.,

Federal Highway Deputy Administrator.

PART 658—TRUCK SIZE AND WEIGHT; ROUTE DESIGNATION—LENGTH, WIDTH AND WEIGHT LIMITATIONS

In consideration of the foregoing, the FHWA proposes to amend 23 CFR part 658 as follows:

1. Revise the authority citation for 23 CFR 658 to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111, 31112, 31113, and 31114; 49 CFR 1.48.

2. Amend § 658.5 by revising the definition of *Length exclusive devices* and *Safety devices—width exclusion* and adding a definition of *Swing radius* to read as follows:

§ 658.5 Definitions.

* * * * *

Length exclusive devices. Devices excluded from the measurement of vehicle length. Such devices shall not be designed or used to carry cargo.

* * * * *

Safety devices—width exclusion. Devices excluded from the measurement of vehicle width. Such devices shall not be designed or used to carry cargo.

* * * * *

Swing radius. The swing radius is the volume bounded by the front wall of a semitrailer or trailer and the arc formed when a line centered on the kingpin is rotated from the lower left to the lower right front corner of the vehicles. The swing radius extends from the bottom to the top of the semitrailer or trailer.

* * * * *

3. In § 658.13, remove paragraph (f); redesignate paragraphs (g) and (h) as paragraphs (f) and (g), respectively; and revise paragraph (e)(1)(ii) to read as follows:

§ 658.13 Length.

* * * * *

(e) * * *

(1) * * *

(ii) All length provisions regarding automobile transporters are exclusive of front and rear overhang. Further, no State shall impose a front overhang limitation of less than 3 feet or a rearmost overhang limitation of less than 4 feet. Extendable ramps or ''flippers'' on automobile transporters which are used to achieve the allowable 3-foot front and 4-foot rear cargo overhangs are excluded from the measurement of vehicle length, provided they are retracted when not supporting cargo.

§ 658.15 [Amended]

4. Amend § 658.15 by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

5. Add § 658.16 to read as follows:

§ 658.16 Exclusions from length and width determinations.

(a) Vehicle components not excluded by law or regulation shall be included in the measurement of the length and width of commercial motor vehicles.

(b) The following shall be excluded from measurements of commercial motor vehicle length and width: All nonload-carrying devices which do not extend more than 3 inches beyond the front or each side of the vehicle, or 24 inches beyond the rear of the vehicle, and all nonload-carrying devices within the swing radius at the front of a semitrailer or trailer. In addition, resilient bumpers extending up to 6 inches from the front and rear of a commercial vehicle shall be excluded from the measurement of length.

(c) Rear view mirrors may extend up to 12 inches and turn signal lamps my extend up to 6 inches beyond each side of a vehicle.

(d) Aerodynamic devices made of flexible material which are inflated by air pressure and lack a rigid structure may extend not more than 8 feet beyond the rear of a vehicle, provided they do not obscure tail lamps, turn signals, marker lamps, identification lamps, license plates, or any other required safety devices, such as hazardous materials placards or conspicuity markings.

(e) These exclusions are specific and may not be added to other excluded devices.

(f) Measurements are to be made from a point on one side or end of a commercial motor vehicle to the same point on the opposite side or end of the vehicle.

[FR Doc. 00–20939 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 26, 161, and 165

[USCG–1998–4399]

RIN 2115–AF75

Vessel Traffic Service Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Proposed rulemaking; notice of reopening of comment period, and public meeting.

SUMMARY: The Coast Guard is reopening the period for public comment on the notice of proposed rulemaking (NPRM) establishing a Vessel Traffic Service (VTS) on the Lower Mississippi River published on April 26, 2000 (65 FR 24616). Due to several requests for additional time to comment, the Coast Guard is reopening the comment period. The Coast Guard will also schedule a public meeting to receive comments on the NPRM. The date and address of this meeting will be determined in the future, and subsequently published in a separate notice in the **Federal Register**.

DATES: Comments must reach the Coast Guard on or before December 1, 2000.

ADDRESSES: Please submit your comments and related material by any one of the following methods (but by only one, to avoid multiple listings in the public docket):

(1) By mail to the Docket Management Facility [USCG–1998–4399], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

The address of the meeting will be determined in the future, and subsequently published in a separate notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For questions on the proposed rulemaking, contact Mr. Jorge Arroyo, Office of Vessel Traffic Management, (G–MWV), Coast Guard, telephone 202–267–6277. For questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief of Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking (NPRM) on a Vessel Traffic Service (VTS) on the Lower Mississippi River, published on April 26, 2000 (65 FR 24616), encouraged interested persons to participate in this rulemaking by submitting written data, views, or arguments by July 25, 2000. In response to several requests for additional comment time, the Coast Guard is reopening the comment period on the NPRM until December 1, 2000. Please do not resubmit comments that have already been made part of this docket. The NPRM and comments already received may be viewed at http://dms.dot.gov.

Persons submitting comments should include their names and addresses, identify this docket (USCG–1998–4399), the specific section of the NPRM to which each comment applies, and give the reason for each comment. Please submit one copy of each comment and attachment in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing, to the DOT Docket Management Facility at the address under **ADDRESSES.** If you want acknowledgment of receipt of your comment, enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this NPRM in view of them.

Public Meeting

The Coast Guard intends to hold a public meeting in the New Orleans area to receive comments on the NPRM. The exact date and location will be published in a notice in the **Federal Register** as soon as they are determined.

Dated: August 14, 2000.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–21126 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–00–029]

RIN 2115–AE47

Drawbridge Operations; Duwamish River, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to increase by one hour the afternoon closed period, Monday through Friday, during which the First Avenue South Drawbridges across the Duwamish River, mile 2.5, at Seattle, Washington, need not open for the passage of vessels. Currently, the dual bascule bridges need not open from 3 p.m. to 6 p.m. Monday through Friday, except for federal holidays. The proposed change would extend this period from 3 p.m. to 7 p.m.

DATES: Comments and related material must reach the Coast Guard on or before October 17, 2000.

ADDRESSES: You may mail comments and related material to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067 or deliver them to room 3510 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays. The Aids to Navigation and Waterways Management Office maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying.

FOR FURTHER INFORMATION CONTACT: Austin Pratt, Project Officer, Thirteenth Coast Guard District, (206) 220–7282.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD13–00–029), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. However, you may submit a request for a meeting by writing to Commander, Thirteenth Coast Guard District (oan) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The dual First Avenue South bascule bridges provide 32 feet of vertical clearance above mean high water for the central 100 feet of horizontal distance in the channel spans. When the drawspans are open there is unlimited vertical clearance for the central 120 feet of the spans. An adjacent, parallel bascule bridge was constructed and completed in 1999. Drawbridge openings are provided for recreational vessels, large barges, and floating construction equipment. The operating regulations currently in effect for these drawbridges at 33 CFR 117.1041 provide that the spans need not open for the passage of vessels from 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m. Monday through Friday, except for federal holidays. The draws shall open at any time for a vessel of 5,000 gross tons and over, a vessel towing such a vessel or en route to take in tow a vessel of that size. These periods provide some relief to heavy commuter traffic on First Avenue South. Much of this commuter traffic is generated by several facilities of the Boeing Company and other industrial concerns in the area.

Discussion of Proposed Rule

Proposed for change is the ending time of the afternoon closed period. Currently, the weekday closed period in the afternoon is from 3 p.m. to 6 p.m. The proposed change is to extend that period one hour to 7 p.m. Monday through Friday, except for federal holidays, which will coincide better with commuter traffic volumes. Traffic counts are showing numbers at 7 p.m. on weekdays that are often as high as those at 3 p.m. when the afternoon closed period in effect commences.

Regulatory Evaluation

This proposed 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. The Office of Management and Budget has not reviewed it 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the bridges would open only for vessels one hour less per weekday than it does now. The bridges opened a total of 1591 times for vessels in 1999 for a daily average of less than 5 times.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. Some vessel owners might be temporarily inconvenienced by the change, if effected, but the delay of an additional hour in the evening should not be significant, especially after vessel operators learn of the change and can therefore plan their trips on the river accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect our small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Austin Pratt at (206) 220–7282.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A ''Categorical Exclusion Determination'' is available in the docket at the address indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.1041(a)(1) is revised to read as follows:

§ 117.1041 Duwamish Waterway.

(a) * * *

(1) From Monday through Friday, except federal holidays, the draws of the dual First Avenue South bridges, mile 2.5, need not open for the passage of vessels from 6 a.m. to 9 a.m. and 3 p.m. to 7 p.m. except: The draws shall open at any time for a vessel of 5,000 gross tons and over, a vessel towing a vessel of 5,000 gross tons and over, and a vessel proceeding to pick up a vessel of 5,000 gross tons and over.

* * * * *

Dated: August 9, 2000.

Erroll Brown,

Rear Admiral, U. S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 00–21124 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG–2000–7796]

Notification of Arrival; Addition of Charterer or Cargo Owner to Required Information

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is requesting comments about charterers and cargo owners to improve its Port State Control targeting matrix used to prioritize vessel boardings. The request for comments is intended to enhance the Coast Guard's understanding of the role of charterers and cargo owners in influencing the quality of shipping. Depending on the information received, we may commence a rulemaking to amend the

notification requirements in the Notice of Arrival regulations.

DATES: Comments and related material must reach the Docket Management Facility on or before October 2, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2000–7796), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this Notice; request for comments, call LCDR Michael Jendrossek, Vessel and Facility Operating Standards Division, Coast Guard Headquarters, telephone 202–267–0836. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this Coast Guard policy development process by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this notice (USCG–2000–7796), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. Your comments and materials may influence policy that we propose. We will consider all comments received during the comment period.

The Coast Guard may schedule a public meeting depending on input received in response to this notice. You may request a public meeting by submitting a request to the address under **ADDRESSES**. The request should include the reasons why a meeting would be beneficial. If the Coast Guard determines that a public meeting should be held, it will hold the meeting at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Ports and Waterways Safety Act of 1972 [86 Stat. 424], as amended by the Port and Tanker Safety Act of 1978 [92 Stat.127], authorizes the Secretary of the Department in which the Coast Guard is operating to require the receipt of notice from vessels destined for or departing from a port or place under the jurisdiction of the United States. This Notice of Arrival, 33 CFR Part 160, Subpart C, includes information necessary for the control of the vessel and for the safety of the port or marine environment.

In April of 1994, because of concerns raised over the steady increase in the number of substandard non-U.S. flagged vessels visiting U.S. waters, the Coast Guard established its Port State Control program (PSC) with the goal of eliminating substandard vessels from U.S. waters. Primary responsibility for ensuring that a vessel remains in compliance with applicable international and national regulations falls to the owners, operators, Flag State, and classification (class) society. Because these parties failed to carry out their responsibilities the Coast Guard implemented a more comprehensive foreign vessel boarding program that includes examinations of freight ships, tank ships, and passenger vessels.

Each year, 8000 foreign-flagged vessels make more than 50,000 U.S. port calls, and the Coast Guard conducts approximately 12,000 examinations. A risk-based targeting scheme was developed to ensure that vessels, which may pose an unacceptable risk to U.S. ports, are boarded. The targeting matrix utilizes the following information: Flag State, owner, operator, class society, ship type and operating history in U.S. waters.

The targeting matrix is a tool that the COTP uses to assign a score to each arriving vessel, and then prioritizes vessel boardings based on the total number of points assigned, as well as other factors. These vessels, representing the highest risk, are targeted for boardings. Once aboard the vessel, the Coast Guard verifies that the vessel has valid certificates from its Flag State that indicate compliance with applicable international safety and pollution prevention conventions.

If a vessel is determined to be substandard, which means that its hull, machinery, equipment, or operational readiness is substantially below required standards, it is detained until the deficiencies are corrected.

In an attempt to improve the overall quality of shipping, two recent initiatives were implemented—The International Safety Management (ISM) Code, and the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 95). These initiatives focus on the human element of ship operations and place responsibility with the companies operating ships. These initiatives have been effective in reducing the number of substandard vessels in U.S. waters, as well as around the world.

Despite these new initiatives, substandard vessels continue to call in U.S. waters. Although the number of detentions of substandard vessels fell from 547 in 1997 to 257 in 1999, we believe that there are still too many.

Many involved in international shipping have noted that charterers can exert considerable influence on the quality of shipping and are not held accountable by any Port State Control regime. A recent study sponsored by the Netherlands Ministry of Transport indicates that the expense of operating a substandard vessel was 14 percent less than the operating cost for a compliant vessel. This raises the possibility that charterers and cargo owners may select vessels for hire which are non-compliant because of lower charter rates.

The Coast Guard needs answers to certain questions about charterers and cargo owners to determine whether it will be appropriate to add charterers and cargo owners to the Notice of Arrival information and the targeting matrix. Because the Coast Guard does not currently have vessel charterer data,

we cannot determine the impact that this information will have on the targeting matrix, or the number and percentage of detentions that would cause a charterer to be targeted. Depending on the information received, we may commence a rulemaking to amend the notification requirements in the Notice of Arrival regulations.

Of particular interest to the Coast Guard is an understanding of how chartering selections are made, the factors that are considered, how the process works, as well as economic influences.

Questions

We especially need the public's assistance in answering the following questions, and any additional information provided on this topic is welcome. In responding to each question, please explain your reasons for each answer as specifically as possible so that we can carefully weigh the consequences and impacts of any future actions we may take. For the following questions we have defined charterer as: An individual or company who hires a vessel or portion of a vessel. A charterer may also be a shipping company employee or an employee at a shipbroker whose job it is to do business on the freight market.

In preparing your response to these questions please indicate your position in the maritime industry as well as the type of vessel, cargo, and charter agreement specific to your situation, if applicable.

1. What role do the charterer and cargo owner play in ensuring ships are in compliance with international safety and pollution regulations. To what extent should they be held accountable?

2. Would publication of a list of charterers and cargo owners that are associated with detentions improve compliance with international safety standards?

3. Should the charterer and cargo owner be included in the Coast Guard's Port State Control targeting matrix? If so, does the type of chartering agreement matter when a decision is being made to determine who should be associated with a detention?

4. What is the screening process used by your company prior to chartering a vessel? How is the final vessel selection made?

5. What factors are considered when you select a vessel for charter?

6. Do you consider a vessel's safety or casualty record, including its Port State Control history in your decision process?

7. Does a charterer or cargo owner ever change during a voyage? If yes, what are the circumstances and in general how often does this occur?

8. In those instances where the charterer changes during the voyage or there are multiple cargo owners or cargo ownership changes how is responsibility for ensuring compliance with international maritime safety and pollution prevention standards determined?

9. What documentation does the vessel owner, agent, master, person-in-charge or operator have that identifies the charterer or cargo owner? Is this documentation available onboard the vessel?

10. How is the cost of a delay resulting from a Port State Control action or detention measured or determined? Who absorbs or pays for it?

11. Would requiring that the name of the charterer and cargo owner be provided as part of the notice of arrival have an impact on small businesses?

12. What would the cost be to your company of adding the name of the charterer and cargo owner to the information reported in the notice of arrival? Does this cost differ according to the type of charter, cargo owner or vessel type? What is the basis for your estimate?

13. What is your estimate of the total cost to industry of adding the name of the charterer and cargo owner to the information reported in the notice of arrival? What is the total cost by charterer, cargo owner or vessel type? What is the basis for your estimate?

Dated: August 4, 2000.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–21125 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AG08

Migratory Bird Hunting; Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2000–01 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service or we) proposes special migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2000–01 migratory bird hunting season.

DATES: To comment on these proposed regulations, you must do so by August 28, 2000.

ADDRESSES: Send your comments on these proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634-Arlington Square, 1849 C Street, NW, Washington, DC 20240. All comments received will become part of the public record. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358–1714).

SUPPLEMENTARY INFORMATION: In the April 25, 2000, **Federal Register** (65 FR 24260), we requested proposals from Indian tribes wishing to establish special migratory bird hunting regulations for the 2000–01 hunting season, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). In this supplemental proposed rule, we propose special migratory bird hunting regulations for 23 Indian tribes, based on the input we received in response to the April 25, 2000, proposed rule. As described in that rule, the promulgation of annual migratory bird hunting regulations involves a series of rulemaking actions each year. This proposed rule is part of that series.

We developed the guidelines for establishing special migratory bird hunting regulations for Indian tribes in response to tribal requests for recognition of their reserved hunting rights and, for some tribes, recognition of their authority to regulate hunting by both tribal and nontribal members on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of the usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season

length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10 to September 1 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (Treaty). The guidelines apply to those tribes having recognized reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and on ceded lands. They also apply to establishing migratory bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife management authority over such hunting or where the tribes and affected States otherwise have reached agreement over hunting by nontribal members on lands owned by non-Indians within the reservation.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, we encourage the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, we will consult with a tribe and State with the aim of facilitating an accord. We also will consult jointly with tribal and State officials in the affected States where tribes wish to establish special hunting regulations for tribal members on ceded lands.

Because of past questions regarding interpretation of what events trigger the consultation process, as well as who initiates it, we provide the following clarification. We routinely provide copies of **Federal Register** publications to all State Directors, tribes, and other interested parties. It is the responsibility of the States, tribes, and others to notify us of any concern regarding any feature(s) of any regulations. When we receive such notification, we will initiate consultation.

Our guidelines provide for the continued harvest of waterfowl and other migratory game birds by tribal members on reservations where such harvest has been a customary practice. We do not oppose this harvest, provided it does not take place during the closed season defined by the Treaty, and does not adversely affect the status of the migratory bird resource.

Before developing the guidelines, we reviewed available information on the current status of migratory bird populations; reviewed the current status of migratory bird hunting on Federal Indian reservations; and evaluated the potential impact of such guidelines on migratory birds. We concluded that the impact of migratory bird harvest by tribal members hunting on their reservations is minimal.

One area of interest in Indian migratory bird hunting regulations relates to hunting seasons for nontribal members on dates that are within Federal frameworks, but which are different from those established by the State(s) where the reservation is located. A large influx of nontribal hunters onto a reservation at a time when the season is closed in the surrounding State(s) could result in adverse population impacts on one or more migratory bird species. The guidelines make this unlikely, however, because tribal proposals must include:

(a) Harvest anticipated under the requested regulations;

(b) methods that will be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

(c) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(d) tribal capabilities to establish and enforce migratory bird hunting regulations. We may modify or establish regulations experimentally, after evaluation and confirmation of harvest information obtained by the tribes.

We believe the guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while ensuring that the migratory bird resource receives necessary protection. The conservation of this important international resource is paramount. The guidelines should not be viewed as inflexible. In this regard, we note that they have been employed successfully since 1985. We believe they have been tested adequately and, therefore, made them final beginning with the 1988–89 hunting season. We should stress here, however, that use of the guidelines is not mandatory and no action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

Population Status

The following paragraphs provide preliminary information on the status of waterfowl and information on the status and harvest of migratory shore and upland game birds.

May Breeding Waterfowl and Habitat Survey

In the Western or Traditional survey area, conditions were much drier this spring than the previous 6 years. These dry conditions are reflected in the Prairie May ponds estimate of 3.9 ± 0.1 million, down 41 percent from 1999 and 20 percent below the 1974–99 average. Conditions ranged from poor in much of Alberta and parts of Montana and Saskatchewan to fair to good in most other areas. Only portions of northern Manitoba and the Dakotas were in excellent condition. In June, much of the prairie received heavy rains. While this may have increased breeding habitat quantity and quality, heavy rains in the Dakotas may have caused flooding and loss of nests. Southern Saskatchewan and Manitoba were in generally fair condition, and the Dakotas were in generally good condition, while most of Northern Saskatchewan and Manitoba were in good to excellent condition. In Alaska, a significant cooling down changed an early warm spring into a cool, late spring, resulting in a 2–3 week later-than-normal ice breakup. In Alaska, a later spring generally results in lower production. Overall, May habitat conditions in the traditional survey area were poor to good, improving to the north and east. July surveys will help determine if recent rain helped duck production.

Winter and spring were also warm and dry in the Eastern survey area. A seemingly early spring cooled down markedly, especially in Labrador, Newfoundland, and Eastern Quebec. In these easternmost regions, spring was 2–3 weeks behind normal. Water levels in southwestern Ontario, Maine, Nova Scotia, and New Brunswick are higher this year than last year. However, southern Ontario and southern Quebec are drier than normal. In southwest Ontario, Maine, and the Maritimes, heavy thunderstorms in May caused severe flooding and may have caused much renesting. Overall, habitat conditions in the east are generally good, with the exception of some areas of southern Ontario and southern/central Quebec, where low water levels resulted in fair to poor habitat conditions. Overall, the survey area was in generally good condition, and production is expected to be good this year.

The 2000 total duck population estimate for the traditional survey area was 41.8 ± 0.7 million birds. This was similar to last year's record estimate of

43.4 ± 0.7 million birds, and still 27 percent above the 1955–99 average. Mallard abundance was 9.5 ± 0.3 million, which is 12 percent below last year's record estimate but still 27 percent above the 1955–99 average. Blue-winged teal abundance was estimated at a record high of 7.4 ± 0.4 million. This was similar to last year's estimate of 7.1 million, and 69 percent above the 1955–99 average. Gadwall (3.2 ± 0.2, +100 percent), green-winged teal (3.2 ± 0.2 million, +80 percent), northern shovelers (3.5 ± 0.2 million, +73 percent), and redheads (0.9 ± 0.1 million, +50 percent) were all above their long-term averages, while northern pintails (2.9 ± 0.2 million, −33 percent) and scaup (4.0 ± 0.2 million, −25 percent) were again below their long-term averages. Green-winged teal was the only species that increased over 1999, an increase of 21 percent.

This year, new areas have again been included in the Eastern survey area. In addition, we have redefined the total duck composition of this area to include scoters and mergansers, because they are important breeding species in this survey area. Therefore, the eastern 1999 total duck estimate used this year is not the same as that published last year. The 2000 total duck population estimate for the eastern survey area was 2.6 ± 0.3 million birds, similar to last year's total duck estimate of 2.9 ± 0.2 million birds. Abundances of individual species were similar to last year, with the exception of scaup (116.1 ± 32 thousand, +296 percent), scoters (182.1 ± 59 thousand, +288 percent), and green-winged teal (201.6 ± 28.7 thousand, −52 percent).

Sandhill Cranes

The Mid-Continent Population of Sandhill Cranes appears to have stabilized following dramatic increases in the early 1980's. The Central Platte River Valley 2000 preliminary spring index, uncorrected for visibility, was 488,000. The photo-corrected 3-year average for the 1997–99 period was 450,126, which was within the established population-objective range of 343,000–465,000 cranes. All Central Flyway States, except Nebraska, elected to allow crane hunting in portions of their respective States in 1999–2000. About 6,700 hunters participated in these seasons, which was 18 percent lower than the previous year's seasons. About 19,800 cranes were harvested in 1999–2000 in the Central Flyway, a 7 percent decrease from the previous year's high estimate. Harvests from the Pacific Flyway, Canada, and Mexico are estimated to be about 13,800 for the 1999–2000 sport-hunting seasons. The total North American sport harvest, including crippling losses, was estimated to be about 37,207 for the Mid-Continent Population.

The fall 1999 premigration survey estimate for the Rocky Mountain Population was 19,501, which is similar to the 1998 estimate of 18,202. Limited special seasons were held during 1999 in portions of Arizona, Idaho, Montana, New Mexico, Utah, and Wyoming, resulting in an estimated harvest of 658 cranes.

Woodcock

Singing-ground and Wing-collection surveys were conducted to assess the population status of the American woodcock (*Scolopax minor*). Singing-ground survey data from 2000 indicate that the number of displaying woodcock in the Eastern Region decreased 11.0 percent (P<0.1) from 1999 levels. In the Central Region, there was a 10.4 percent increase in the number of woodcock heard displaying (P<0.1) compared to 1999 levels. Trends from the singing-ground survey during 1990–00 were negative (−3.5 and −3.1 percent per year for the Eastern and Central regions, respectively; P<0.01). There were long-term (1968–00) declines (P<0.01) of 2.3 percent per year in the Eastern Region and 1.6 percent per year in the Central Region.

The 1999 recruitment index for the Eastern Region (1.1 immatures per adult female) was 35 percent below the long-term regional average; the recruitment index for the Central Region (1.2 immatures per adult female) was 29 percent below the long-term regional average. The index of daily hunting success in the Eastern Region increased from 1.9 woodcock per successful hunt in 1998 to 2.0 woodcock per successful hunt in 1999, and seasonal hunting success increased 3 percent, from 7.2 to 7.4 woodcock per successful hunter in 1998 and 1999, respectively. In the Central Region, the daily success index in 1999 was unchanged from the 1998 index (2.1 woodcock per successful hunt) but the seasonal success index decreased 11 percent from 11.3 to 10.0 woodcock per successful hunter.

Band-Tailed Pigeons and Doves

The status of the Coastal population of band-tailed pigeons appears to be improving. While a significant decline occurred between 1968–99 as indicated by the Breeding Bird Survey (BBS), no trend was indicated over the most recent 10 years. Additionally, mineral site counts at 10 selected sites in Oregon indicate a steady increase over the past 10 years. The count in 1999 was 65 percent above the previous 31-year average. Call-count surveys conducted in Washington showed a nonsignificant decline between the 1975–99 and 1995–99 periods. Washington has opted not to select a hunting season for bandtails since 1991. The harvest of Coastal pigeons is estimated to be about 23,000 birds out of a population of about 3 million. The Interior band-tailed pigeon population is stable with no trend indicated by the BBS over the short- or long-term periods. Harvest estimates range from 1,300 to 1,900 birds.

Analyses of Mourning Dove Call-count Survey data indicated significant declines in doves heard over the most recent 10 years and the entire 35 years of the survey in all three management units. A project has been funded recently to develop mourning dove population models for each unit to provide guidance in what needs to be done to improve our decision-making process with respect to harvest management.

White-winged doves in Arizona are maintaining a fairly stable population since the 1970's.

Between 1999 and 2000, the average number of doves heard per route doubled from 25 to 50. A low harvest (142,000 in 1999) is being maintained compared with birds taken several decades ago. In Texas, the phenomenon of the white-winged dove expansion continues. The population in the Lower Rio Grande Valley increased 19 percent from 1999 to an estimated 507,000 birds; in Upper South Texas, the count increased 7 percent to 999,000; and, in West Texas, the count increased 94 percent to 33,000. The whitewing population may reach epidemic proportions in 5–10 years and could begin causing substantial damage to agricultural crops being grown near cities that have a large population of whitewings. Hunting does not appear to be having any effect upon these northern urban nesters.

Hunting Season Proposals from Indian Tribes and Organizations

For the 2000–01 hunting season, we received requests from 23 tribes and Indian organizations. We actively solicit regulatory proposals from other tribal groups that are interested in working cooperatively for the benefit of waterfowl and other migratory game birds. We encourage tribes to work with us to develop agreements for management of migratory bird resources on tribal lands. It should be noted that this proposed rule includes generalized regulations for both early- and late-season hunting. A final rule will be published in a late-August 2000 **Federal Register** that will include tribal regulations for the early-hunting season.

The early season begins on September 1 each year and most commonly includes such species as mourning doves and white-winged doves. A final rule will also be published in a September 2000 **Federal Register** that will include regulations for late-season hunting. The late season begins on or around October 1 and most commonly includes waterfowl species.

In this current rulemaking, because of the compressed timeframe for establishing regulations for Indian tribes and because final frameworks dates and other specific information are not available, the regulations for many tribal hunting seasons are described in relation to the season dates, season length, and limits that will be permitted when final Federal frameworks are announced for early- and late-season regulations. For example, daily bag and possession limits for ducks on some areas are shown as ''Same as permitted in Pacific Flyway States under final Federal frameworks,'' and limits for geese will be shown as the same permitted by the State(s) in which the tribal hunting area is located.

The proposed frameworks for early-season regulations were published in the **Federal Register** on July 31, 2000 (65 FR 46840); early-season final frameworks will be published in mid-August. Proposed late-season frameworks for waterfowl and coots will be published in mid-August, and the final frameworks for the late seasons will be published in mid-September. We will notify affected tribes of season dates, bag limits, etc., as soon as final frameworks are established. As previously discussed, no action is required by tribes wishing to observe migratory bird hunting regulations established by the State(s) where they are located. The proposed regulations for the 23 tribes with proposals that meet the established criteria are shown below.

(a) Colorado River Indian Tribes, Colorado River Indian Reservation, Parker, Arizona (Tribal Members and Nontribal Hunters)

The Colorado River Indian Reservation is located in Arizona and California. The tribes own almost all lands on the reservation, and have full wildlife management authority.

In their 2000–01 proposal, dated July 10, 2000, the Colorado River Indian Tribes requested split dove seasons. They propose their early season begin September 1 and end September 15, 2000. Daily bag limits would be 10 mourning or 10 white-winged doves either singly or in the aggregate. The late season for doves is proposed to open November 17, 2000, and close January 7, 2001. A daily bag limit would be 10 mourning doves. The possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to noon in the early season and until sunset in the late season. Other special tribally set regulations would apply.

The tribes also propose duck hunting seasons. The season would likely open October 7, 2000, or on a Saturday and run until January 7, 2001, or for the maximum number of days allowed under the Pacific Flyway frameworks. The tribes propose the same season dates for coots and common moorhens. The daily bag limit for ducks, including mergansers, would be the same as that allowed in the Pacific Flyway, except that the daily bag limits for goldeneyes and cinnamon teal would be two. The possession limit would be twice the daily bag limit. The daily bag limit for coots and common moorhens would be 25, singly or in the aggregate. The possession limit for coots and common moorhens would be twice the daily bag limit. For geese, the Colorado River Indian Tribes propose a season of November 18, 2000, through January 14, 2001. The daily bag and possession limits for geese would be four, but could include no more than three light geese or two dark geese.

In 1996, the tribe conducted a detailed assessment of dove hunting. Results showed approximately 16,100 mourning doves and 13,600 white-winged doves were harvested by approximately 2,660 hunters who averaged 1.45 hunter-days. Field observations and permit sales indicate that fewer than 200 hunters participate in waterfowl seasons. Under the proposed regulations described here and, based upon past seasons, we and the tribes estimate harvest will be similar.

Hunters must have a valid Colorado River Indian Reservation hunting permit in their possession while hunting. As in the past, the regulations would apply both to tribal and non-tribal hunters, and nontoxic shot is required for waterfowl hunting.

We propose to approve the Colorado River Indian Tribes regulations for the 2000–01 hunting season.

(b) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Nontribal Hunters)

For the past several years, the Confederated Salish and Kootenai Tribes and the State of Montana have entered into cooperative agreements for the regulation of hunting on the Flathead Indian Reservation. The State and the tribes are currently operating under a cooperative agreement signed in 1990 that addresses fishing and hunting management and regulation issues of mutual concern. This agreement enables all hunters to utilize waterfowl hunting opportunities on the reservation. The tribes proposed special regulations for waterfowl hunting were submitted in a May 15, 2000, proposal.

As in the past, tribal regulations for nontribal members would be at least as restrictive as those established for the Pacific Flyway portion of Montana. Goose season dates would also be at least as restrictive as those established for the Pacific Flyway portion of Montana. Shooting hours for waterfowl hunting on the Flathead Reservation are sunrise to sunset. Steel, bismuth-tin, or other Federally approved nontoxic shots are the only legal shotgun loads on the reservation for waterfowl or other game birds.

The requested season dates and bag limits are generally similar to past regulations. Harvest levels are not expected to change significantly. Standardized check station data from the 1993–94 and 1994–95 hunting seasons indicated no significant changes in harvest levels and that the large majority of the harvest is by non-tribal hunters.

We propose to approve the tribes' request for special migratory bird regulations for the 2000–01 hunting season.

(c) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Nontribal Hunters)

The Crow Creek Indian Reservation has a checkerboard pattern of land ownership, with much of the land owned by non-Indians. Since the 1993–94 season, the tribe has selected special waterfowl hunting regulations independent of the State of South Dakota. The tribe observes migratory bird hunting regulations contained in 50 CFR part 20.

In their 2000 proposal, the tribe requested a duck and merganser season of October 9 to December 21, 2000, with a daily bag limit of six ducks, including no more than five mallards (one hen mallard), one canvasback, two redheads, two wood ducks, two scaup, and one pintail. The merganser daily bag limit would be five and include no more than one hooded merganser. For Canada geese, the tribe proposes an October 9, 2000, to January 9, 2001, season with a three bird daily bag limit. For white-fronted geese, the tribe proposes an October 2 to December 12, 2000, season with a daily bag limit of two. For snow

geese, the tribe proposes an October 2 to December 25, 2000, and February 19 to March 10, 2001, season with a daily bag limit of 20. Similar to the last several years, the tribe also requests a sandhill crane season from September 18 to October 24, 2000, with a daily bag limit of three. In all cases, except snow geese, the possession limits would be twice the daily bag limit. There would be no possession limit for snow geese. Shooting hours would be from one-half hour before sunrise to sunset.

The season and bag limits would be essentially the same as last year and as such the tribe expects similar harvest. In 1994–95, duck harvest was 48 birds, down from 67 in 1993–94. Goose harvest during recent past seasons has been less than 100 geese.

We propose to approve the tribe's requested seasons. We also remind the tribe that all sandhill crane hunters are required to obtain a Federal sandhill crane permit. As such, the tribe should contact us for further information on obtaining the needed permits. In addition, as with all other groups, we request the tribe continue to survey and report harvest.

(d) Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only)

In 1996, for the first time, the Service and the Fond du Lac Band of Lake Superior Chippewa Indians cooperated to establish special migratory bird hunting regulations for tribal members. The Fond du Lac's May 26, 2000, proposal covers land set apart for the band under the Treaties of 1854 and 1837 in northeast and east-central Minnesota.

The band's proposal for 2000–01 is essentially the same as that approved last year. Specifically, the Fond du Lac Band proposes a September 15 to December 3, 2000, season on ducks, mergansers, coots and moorhens, and a September 1 to December 3, 2000, season for geese. For sora and Virginia rails, snipe, and woodcock, the Fond du Lac Band proposes a September 1 to December 3, 2000, season. Proposed daily bag limits would consist of the following:

Ducks: 18 ducks, including no more than 12 mallards (only 6 of which may be hens), 3 black ducks, 9 scaup, 6 wood ducks, 6 redheads, 3 pintails, and 3 canvasbacks.

Mergansers: 15 mergansers, including no more than 3 hooded mergansers.

Geese: 12 geese.

Coots and Common Moorhens (Common Gallinules): 20 coots and common moorhens, singly or in the aggregate.

Sora and Virginia Rails: 25 sora and Virginia rails singly, or in the aggregate.

Common Snipe: Eight common snipe.

Woodcock: Three woodcock.

The following general conditions apply:

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds that are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

The Band anticipates harvest will be fewer than 500 ducks and geese and 150 coots.

We propose to approve the request for special migratory bird hunting regulations for the Fond du Lac Band of Lake Superior Chippewas.

(e) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

In the 1995–96 migratory bird seasons, the Grand Traverse Band of Ottawa and Chippewa Indians and the Service first cooperated to establish special regulations for waterfowl. The Grand Traverse Band is a self-governing, federally recognized tribe located on the west arm of Grand Traverse Bay in Leelanau County, Michigan. The Grand Traverse Band is a signatory tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory tribes on ceded lands in Michigan since the 1986–87 hunting season.

For the 2000–01 season, the Grand Traverse Band of Ottawa and Chippewa Indians proposes identical regulations to those implemented last year. The tribal member duck season would run from September 20, 2000, through January 20, 2001. A daily bag limit of 10 would include no more than 1 pintail, 1 canvasback, 1 hooded merganser, 2 black ducks, 2 wood ducks, 2 redheads, and 5 mallards (only 2 of which may be hens). For Canada geese, the tribe proposes a September 1 through November 30, 2000, and a January 1 through February 8, 2001, season. For white-fronted geese, brant, and snow geese, the tribe proposes an October 1 through November 30, 2000, season. The daily bag limit for all geese (including brant) would be five birds. Based on our information, it is unlikely that any Canada geese from the Southern James Bay Population would be harvested by the tribe.

For woodcock, snipe, and sora rail, the tribe proposes a September 1 to November 14, 2000, season. The daily bag limit shall not exceed five birds per species.

All other Federal regulations contained in 50 CFR part 20 would apply. The tribe proposes to closely monitor harvest through game bag checks, patrols, and mail surveys. In particular, the tribe proposes monitoring the harvest of Southern James Bay Canada geese to assess any impacts of tribal hunting on the population. Last year, the tribe harvested approximately 250 ducks and 100 Canada geese.

We propose to approve the Grand Traverse Band of Ottawa and Chippewa Indian's requested 2000–01 special migratory bird hunting regulations.

(f) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Since 1985, various bands of the Lake Superior Tribe of Chippewa Indians have exercised judicially recognized off-reservation hunting rights for migratory birds in Wisconsin. The specific regulations were established by the Service in consultation with the Wisconsin Department of Natural Resources and the Great Lakes Indian Fish and Wildlife Commission (GLIFWC, which represents the various bands). Beginning in 1986, a tribal season on ceded lands in the western portion of the State's Upper Peninsula was developed in coordination with the Michigan Department of Natural Resources, and we have approved special regulations for tribal members in

both Michigan and Wisconsin since the 1986–87 hunting season. In 1987, the GLIFWC requested, and we approved, special regulations to permit tribal members to hunt on ceded lands in Minnesota, as well as in Michigan and Wisconsin. The States of Michigan and Wisconsin concurred with the regulations, although Wisconsin has raised some concerns each year. Minnesota did not concur with the regulations, stressing that the State would not recognize Chippewa Indian hunting rights in Minnesota's treaty area until a court with jurisdiction over the State acknowledges and defines the extent of these rights. We acknowledge the State's concern, but pointed out that the U.S. Government has recognized the Indian hunting rights decided in the Voigt case, and that acceptable hunting regulations have been negotiated successfully in both Michigan and Wisconsin even though the Voigt decision did not specifically address ceded land outside Wisconsin. We believe this is appropriate because the treaties in question cover ceded lands in Michigan (and Minnesota), as well as in Wisconsin. Consequently, in view of the above, we have approved special regulations since the 1987–88 hunting season on ceded lands in all three States. In fact, this recognition of the principle of reserved treaty rights for band members to hunt and fish was pivotal in our decision to approve a special 1991–92 season for the 1836 ceded area in Michigan.

Recently, certain GLIFWC member bands have brought suit to resolve the issue of hunting, fishing, and gathering rights in the Minnesota ceded areas covered under the 1837 and 1854 treaties. The Federal Government has intervened in support of the bands.

In a June 1, 2000, letter, the GLIFWC proposed off-reservation special migratory bird hunting regulations for the 2000–01 seasons on behalf of the member tribes of the Voigt Intertribal Task Force of the GLIFWC (for the 1837 and 1842 Treaty areas) and the Bay Mills Indian Community (for the 1836 Treaty area). Member tribes of the Task Force are: the Bad River Band of Lake Superior Tribe of Chippewa Indians, The Lac Courte Oreilles Band of Lake Superior Tribe of Chippewa Indians, the Lac du Flambeau Band of Lake Superior Tribe of Chippewa Indians, the Red Cliff Band of Lake Superior Tribe of Chippewa Indians, the St. Croix Chippewa Indians of Wisconsin, the Sokaogon Chippewa Community (Mole Lake Band), the Mille Lacs Band of Chippewa Indians in Minnesota, and the Lac Vieux Desert Band of Chippewa Indians and the Keweenaw Bay Indian Community in Michigan. Details of the proposed regulations are shown below. In general, the proposal is essentially the same as the regulations approved for the 1999–2000 season.

Results of the 1998–99 hunter survey show that 599 ducks and 177 geese were harvested under an anticipated harvest of 3,000 ducks and 900 geese. Under the proposed regulations, harvest is expected to be similar and most likely would not exceed 2,500 ducks and 800 geese.

We believe that regulations advanced by the GLIFWC for the 2000–01 hunting season are biologically acceptable and recommend approval. If the regulations are finalized as proposed, we would request that the GLIFWC closely monitor the member band duck harvest and take any actions necessary to reduce harvest if locally nesting populations are being significantly impacted.

The Commission and the Service are parties to a Memorandum of Agreement (MOA) designed to facilitate the ongoing enforcement of Service-approved tribal migratory bird regulations. Its intent is to provide long-term cooperative application.

Also, as in recent seasons, the proposal contains references to Chapter 10 of the Migratory Bird Harvesting Regulations of the Model Off-Reservation Conservation Code. Chapter 10 regulations parallel State and Federal regulations and, in effect, are not changed by this proposal.

The GLIFWC's proposed 2000–01 waterfowl hunting season regulations are as follows:

Ducks

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 2000.

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 2000.

Daily Bag Limit: 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 pintails, and 1 canvasback.

Mergansers: All Ceded Areas

Season Dates: Begin September 15 and end December 1, 2000.

Daily Bag Limit: Five mergansers.

Geese: All Ceded Areas

Season Dates: Begin September 1 and end December 1, 2000. In addition, any portion of the ceded territory which is open to State-licensed hunters for goose hunting after December 1 shall also be open concurrently for tribal members.

Daily Bag Limit: 10 geese.

Other Migratory Birds: All Ceded Areas

A. Coots and Common Moorhens (Common Gallinules)

Season Dates: Begin September 15 and end December 1, 2000.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

B. Sora and Virginia Rails

Season Dates: Begin September 15 and end December 1, 2000.

Daily Bag Limit: 25 sora and Virginia rails singly, or in the aggregate.

C. Common Snipe

Season Dates: Begin September 15 and end December 1, 2000.

Daily Bag Limit: Eight common snipe.

D. Woodcock

Season Dates: Begin September 5 and end December 1, 2000.

Daily Bag Limit: Five woodcock.

General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR Part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds that are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State

conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with applicable State laws. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

5. Minnesota and Michigan—Duck Blinds and Decoys. Tribal members hunting in Michigan and Minnesota will comply with tribal codes that contain provisions that parallel applicable State laws concerning duck blinds and/or decoys.

(g) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters)

The Jicarilla Apache Tribe has had special migratory bird hunting regulations for tribal members and nonmembers since the 1986–87 hunting season. The tribe owns all lands on the reservation and has recognized full wildlife management authority. In general, the proposed seasons would be more conservative than allowed by the Federal frameworks of last season and by States in the Pacific Flyway.

In a May 24, 2000, proposal, the tribe proposed a 2000–01 waterfowl season opening date of October 7 and a closing date of November 30, 2000. Daily bag and possession limits would be the same as Pacific Flyway States. The tribe proposes a season on Canada geese with a two bird daily bag limit. Other regulations specific to the Pacific Flyway guidelines for New Mexico would be in effect.

The Jicarilla Game and Fish Department's annual estimate of waterfowl harvest is relatively small. In the 1999–2000 season, estimated duck harvest was 1,317, a significant increase from 608 in 1998–99, but within the historical range. The species composition in the past has included mainly mallards, gadwall, wigeon, and teal. Northern pintail comprised only 1 percent of the total harvest in 1999. The estimated harvest of geese was 53 birds.

The proposed regulations are essentially the same as were established last year. The tribe anticipates the maximum 2000–01 waterfowl harvest would be around 1,200 ducks and 50 geese.

We propose to approve the tribe's requested 2000–01 hunting seasons.

(h) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters)

The Kalispel Reservation was established by Executive Order in 1914, and currently comprises approximately 4,600 acres. The tribe owns all Reservation land and has full management authority. The Kalispel Tribe has a fully developed wildlife program with hunting and fishing codes. The tribe enjoys excellent wildlife management relations with the State. The tribe and the State have an operational Memorandum of Understanding with emphasis on fisheries but also for wildlife. The nontribal member seasons described below pertain to a 176-acre waterfowl management unit. The tribe is utilizing this opportunity to rehabilitate an area that needs protection because of past land use practices, as well as to provide additional waterfowl hunting in the area. Beginning in 1996, the requested regulations also included a proposal for Kalispel-member-only migratory bird hunting on Kalispel-ceded lands within Washington, Montana, and Idaho.

For the 2000–01 migratory bird hunting seasons, the Kalispel Tribe proposed, in a May 24, 2000, letter, tribal and nontribal member waterfowl seasons. for nontribal members, the tribe requests seasons that begin September 1, 2000 and end January 31, 2001. In that period, nontribal hunters would be allowed to hunt approximately 114 days. Hunters should obtain further information on days from the Kalispel Tribe. Daily bag and possession limits would be the same as those for the State of Washington.

The tribe reports a 1999–2000 nontribal harvest of 160 ducks and 0 geese. Under the proposal, the tribe expects harvest to be similar to last year and less than 100 geese and 200 ducks.

All other State and Federal regulations contained in 50 CFR part 20, such as use of steel shot and possession of a signed migratory bird hunting stamp, would be required.

For tribal members on Kalispel-ceded lands, the Kalispel proposes outside frameworks for ducks and geese of September 1, 2000, through January 31, 2001. However, during that period, the tribe proposes that the season run continuously. Daily bag and possession limits would be the same as those for the States of Washington and Idaho.

The tribe reports that there was no 1999–2000 tribal harvest. Under the proposal, the tribe expects harvest to be less than 200 geese and 300 ducks. Tribal members would be required to possess a signed Federal migratory bird stamp and a tribal ceded lands permit.

We propose to approve the regulations requested by the Kalispel Tribe provided that the nontribal seasons conform to Treaty limitations and final Federal frameworks for the Pacific Flyway. For the 2000–01 season, outside Federal frameworks for ducks in the Pacific Flyway are September 30, 2000, through January 21, 2001. For geese, frameworks for special early Canada goose seasons are September 1 through September 15, 2000, while regular seasons frameworks are September 30, 2000, through January 21, 2001. All seasons for nontribal hunters must conform with the 107-day maximum season length established by the Treaty.

(i) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

The Klamath Tribe currently has no reservation, per se. However, the Klamath Tribe has reserved hunting, fishing, and gathering rights within its former reservation boundary. This area of former reservation, granted to the Klamaths by the Treaty of 1864, is over 1 million acres. Tribal natural resource management authority is derived from the Treaty of 1864, and carried out cooperatively under the judicially enforced Consent Decree of 1981. The parties to this Consent Decree are the Federal Government, the State of Oregon, and the Klamaths. The Klamath Indian Game Commission sets the seasons. The tribal biological staff and tribal Regulatory Enforcement Officers monitor tribal harvest by frequent bag checks and hunter interviews.

In a June 16, 2000, letter, the Klamath Tribe proposed season dates of October 1, 2000, through January 28, 2001. Daily bag limits would be nine for ducks and six for geese, with possession limits twice the daily bag limit. The daily bag and possession limit for coots would be 25. Shooting hours would be one-half hour before sunrise to one-half hour after sunset. Steel shot is required.

Based on the number of birds produced in the Klamath Basin, the tribe expects that this year's harvest will be similar to last year's. Information on tribal harvest suggests that more than 70 percent of the annual goose harvest is local birds produced in the Klamath basin.

We propose to approve the Klamath Tribe's requested regulations.

(j) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)

For the first time, the Little River Band of Ottawa Indians and the Service are cooperating to establish special regulations for migratory game birds. The Little River Band of Ottawa Indians is a self-governing, federally recognized tribe located in Manistee, Michigan, and a signatory tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory tribes on ceded lands in Michigan since the 1986–87 hunting

season. Ceded lands are located in Lake, Mason, Manistee, and Wexford Counties.

For the 2000–01 season, the Little River Band of Ottawa Indians proposes regulations to parallel those of the State of Michigan. The tribal member duck, merganser, and coots and common moorhens season from October 7 through December 5, 2000. A daily bag limit of six ducks would include no more than one pintail, one canvasback, one black duck, two wood ducks, two redheads, three scaup, and four mallards (only one of which may be a hen). The daily bag limit for mergansers would be five, of which only one could be a hooded merganser. The daily bag limit for coots and common moorhens would be 15. Possession limits would be twice the daily bag limit.

For Canada geese, the tribe proposes a September 1 through September 15, 2000, and a September 24 through October 8, 2000, season. Daily bag limits would be five geese in the early season and two geese in the later portion of the season. The possession limit would be twice the daily bag limit. For white-fronted geese, brant, and snow geese, the tribe proposes an October 7 through December 5, 2000, season. The daily bag limit for all geese (including brant) would be 10 birds, which could include no more than 2 whitefronts or 2 brant. Possession limits would be 30.

For snipe, woodcock, and rails, the tribe proposes a September 15 to November 14, 2000, season. The daily bag limit would be 8 common snipe, 3 woodcock, and 25 rails. Possession limits for snipe and woodcock would be twice the daily bag limit. The possession limit for rails would be 25.

All other Federal regulations contained in 50 CFR part 20 would apply. The tribe proposes to monitor harvest through mail surveys. Last year, the tribe issued approximately 100 licenses.

We propose to approve Little River Band of Ottawa Indians' requested 2000–01 special migratory bird hunting regulations.

(k) The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only)

For the first time, the Little Traverse Bay Bands of Odawa Indians and the Service are cooperating to establish special regulations for migratory game birds. The Little Traverse Bay Bands of Odawa Indians is a self-governing, federally recognized tribe located in Petoskey, Michigan, and a signatory tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory tribes on ceded lands in Michigan since the 1986–87 hunting season.

For the 2000–01 season, the Little Traverse Bay Bands of Odawa Indians propose regulations similar to other tribes in the 1836 treaty area. The tribal member duck season would run from September 20, 2000, through January 20, 2001. A daily bag limit of 10 would include no more than 1 pintail, 1 canvasback, 1 hooded merganser, 2 black ducks, 2 wood ducks, 2 redheads, and 5 mallards (only 2 of which may be hens). For Canada geese, the tribe proposes a September 1 through November 30, 2000, and a January 1 through February 8, 2001, season. For white-fronted geese, brant, and snow geese, the tribe proposes an October 1 through November 30, 2000, season. The daily bag limit for all geese (including brant) would be five birds. Based on our information, it is unlikely that any Canada geese from the Southern James Bay Population would be harvested by the tribe.

For woodcock, snipe, and sora rail, the tribe proposes a September 1 to November 14, 2000, season. The daily bag limit shall not exceed five birds per species.

All other Federal regulations contained in 50 CFR part 20 would apply. The tribe proposes to closely monitor harvest through game bag checks, patrols, and mail surveys. In particular, the tribe proposes monitoring the harvest of Southern James Bay Canada geese to assess any impacts of tribal hunting on the population.

We propose to approve the Little Traverse Bay Bands of Odawa Indians' requested 2000–01 special migratory bird hunting regulations.

(l) Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only)

The Leech Lake Band of Ojibwe is a federally recognized tribe located in Cass Lake, Minnesota. The reservation employs conservation officers to enforce conservation regulations. The Service and the tribe cooperatively established migratory bird hunting regulations for the first time last year.

For the 2000–01 season, we have not yet heard from the tribe regarding this seasons proposal.

Based on last year, we assume the tribe would request a tribal member duck and goose season that would run from September 25 through November 28, 2000. Daily bag limits for both ducks and geese would be 10. Shooting hours are one-half hour before sunrise to one-half hour after sunset.

Based on past harvest surveys, the tribe expects fewer than 200 tribal hunters to participate and a harvest of less than 2,000 birds.

We propose to approve the Leech Lake Band of Ojibwe's requested 2000–01 special migratory bird hunting regulations, provided the tribe provides the appropriate confirmation for the seasons.

(m) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters)

The Lower Brule Sioux Tribe first established tribal migratory bird hunting regulations for the Lower Brule Reservation in 1994. The Lower Brule Reservation is about 214,000 acres in size and is located on and adjacent to the Missouri River, south of Pierre. Land ownership on the reservation is mixed, and until recently, the Lower Brule Tribe had full management authority over fish and wildlife via a MOA with the State of South Dakota. The MOA provided the tribe jurisdiction over fish and wildlife on reservation lands, including deeded and Corps of Engineers taken lands. For the 2000–01 season, the two parties have come to an agreement which allow the public a clear understanding of the Lower Brule Sioux Wildlife Department license requirements and hunting season regulations. The Lower Brule Reservation waterfowl season is open to tribal and non-tribal hunters.

For the 2000–01 migratory bird hunting season, the Lower Brule Sioux Tribe proposes a duck, merganser, and coot season length of 97 days, the same number of days tentatively allowed in the High Plains Management Unit for this season. The tribe's proposed season would run from October 7, 2000, through January 18, 2001. The daily bag limit would be six birds, including no more than five mallards (only one of which may be a hen), one pintail, two redheads, two wood ducks, three scaup, one canvasback, and one mottled duck. The daily bag limit for mergansers would be five, only one of which could be a hooded merganser. The daily bag limit for coots would be 15. Possession limits would be twice the daily bag limits. The tribe also proposes a youth waterfowl hunt on September 30, 2000.

The tribe's proposed Canada goose season would run from October 14, 2000, through January 16, 2001, with a daily bag limit of three Canada geese. The tribe's proposed white-fronted goose season would run from October 14, 2000, through January 7, 2001, with a daily bag limit of two white-fronted geese. The tribe's proposed light goose season would run from October 14, 2000, through January 14, 2001, and

February 24 through March 9, 2001. The light goose daily bag limit would be 20. Possession limits would be twice the daily bag limits.

In the 1998–99 season, hunters harvested an estimated 1,971 geese and 355 ducks. In 1994, duck harvest species composition was primarily mallard (57 percent), gadwall (10 percent), and green-winged teal (10 percent). Goose harvest is traditionally 98 percent Canada geese.

The tribe anticipates a duck harvest similar to last year and a goose harvest below the target harvest level of 3,000 to 4,000 geese. All basic Federal regulations contained in 50 CFR part 20, including the use of steel shot, Migratory Waterfowl Hunting and Conservation Stamp, etc., would be observed by the tribe's proposed regulations. In addition, the Lower Brule Sioux Tribe has an official Conservation Code that was established by Tribal Council Resolution on June 1982 and updated in 1996.

We propose to approve the tribe's requested regulations for the Lower Brule Reservation.

(n) Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters)

Since 1985, we have established uniform migratory bird hunting regulations for tribal members and nonmembers on the Navajo Indian Reservation (in parts of Arizona, New Mexico, and Utah). The Navajo Nation owns almost all lands on the reservation and has full wildlife management authority.

In a July 18, 2000 proposal, the tribe proposed special migratory bird hunting regulations on the reservation for both tribal and nontribal members for the 2000–01 hunting season for ducks (including mergansers), Canada geese, coots, band-tailed pigeons, and mourning doves. For waterfowl, the Navajo Nation requests the earliest opening dates and longest seasons, and the same daily bag and possession limits, permitted Pacific Flyway States under final Federal frameworks.

For both mourning dove and band-tailed pigeons, the Navajo Nation proposes seasons of September 1 through 30. The Navajo Nation also proposes daily bag limits of 10 and 5 for mourning dove and band-tailed pigeon, respectively. Possession limits would be twice the daily bag limits.

In addition, the nation proposes to require tribal members and nonmembers to comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face of the stamp. Special regulations established by the Navajo Nation also apply on the reservation.

The tribe anticipates a total harvest of less than 300 mourning doves, 100 band-tail pigeons, 500 ducks, coots, and mergansers, and 300 Canada geese.

We propose to approve the Navajo Nation request for these special regulations for the 2000–01 migratory bird hunting seasons.

(o) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)

Since 1991–92, the Oneida Tribe of Indians of Wisconsin and the Service have cooperated to establish uniform regulations for migratory bird hunting by tribal and non-tribal hunters within the original Oneida Reservation boundaries. Since 1985, the Oneida Tribe's Conservation Department has enforced their own hunting regulations within those original reservation limits. The Oneida Tribe also has a good working relationship with the State of Wisconsin and the majority of the seasons and limits are the same for the tribe and Wisconsin.

In a May 25, 2000, letter, the tribe proposed special migratory bird hunting regulations. For ducks, the tribe described the general ''outside dates'' as being September 16 through November 17, 2000, inclusive. The tribe proposes a daily bag limit of six birds, which could include no more than five mallards (one hen mallard), five wood ducks, one canvasback, one redhead, two pintails, and one hooded merganser.

For geese, the tribe requests a season between September 1 and December 31, 2000, with a daily bag limit of five brant, three Canada geese, and five snow geese. Hunters will be issued eight tribal tags for geese in order to monitor goose harvest. Additional tags will be issued when birds are registered. The tribe will also close the season during the gun deer season of November 18 to 26, 2000. If a quota of 150 geese is attained before the season concludes, the tribe will recommend closing the season early.

For woodcock, the tribe proposes a season between September 16 and November 17, 2000, with a daily bag and possession limit of 5 and 10, respectively.

The tribe proposes shooting hours be one-half hour before sunrise to sunset. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR, with the following exceptions: Indian hunters would be exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity would not be limited to three shells.

The Service proposes to approve the request for special migratory bird hunting regulations for the Oneida Tribe of Indians of Wisconsin.

(p) Point No Point Treaty Tribes, Kingston, Washington (Tribal Members Only)

For the first time, in 1996, the Service and the Point No Point Treaty Tribes, consisting of the Skokomish, Port Gamble S'klallam, Jamestown S'klallam, and Elwha S'klallam tribes, cooperated to establish special regulations for migratory bird hunting. The four tribes have reservations located on the Olympic Peninsula in Washington. All four tribes have successfully administered tribal hunting regulations since 1985 and each tribe has a comprehensive hunting ordinance.

The tribes' May 23, 2000, proposal requests seasons for ducks, geese, brant, coots, snipe, and mourning doves. For ducks, coots, geese, brant, and snipe, the tribes request a September 15, 2000, to January 15, 2001, season with a daily bag limit of 7 ducks, 25 coots, 4 geese (including no more than 3 light geese), 2 brant, and 8 snipe. The duck daily bag limit would include mergansers and could include no more than two hen mallards, two pintails, one canvasback, and two redheads. The season is closed on harlequin ducks and Aleutian Canada geese. All possession limits would be twice the daily bag limit. For mourning doves, the tribes propose a September 1, 2000, to January 15, 2001, season with a daily bag limit of 10.

The tribes require that all hunters authorized to hunt migratory birds on the reservation obtain a tribal hunting permit from the respective tribe. Hunters are also required to adhere to a number of special regulations available at the tribal office. Tribal harvest last year under similar regulations was approximately 185 ducks, 22 geese, and 15 coots.

We propose to approve the Point No Point Treaty Tribes requested 2000–01 regulations.

(q) Seminole Tribe of Florida, Big Cypress Seminole Reservation, Clewiston, Florida (Tribal Members and Nontribal Hunters)

The Seminole Tribe of Florida and the Service have cooperated since 1995 to

establish regulations for the 70,000-acre Big Cypress Seminole Reservation. Located northwest of Miami, the Big Cypress Seminole Reservation is totally tribally owned and the tribe has full wildlife management authority.

For the 2000–01 season, the Seminole Tribe proposes establishing a mourning dove season from September 17, 2000, through January 20, 2001. Hunting would be allowed for tribal and non-tribal members, but would be on Sundays only. Daily bag limits would be the same as those allowed within the Federal frameworks for the State of Florida. All other Federal regulations contained in 50 CFR part 20 would apply. In 1997, under identical regulations, hunters harvested 2,078 doves on the reservation. The tribe controls all entry to the hunt area.

We propose to approve the Seminole Tribe's requested 2000–01 special migratory bird hunting regulations.

(r) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters)

Almost all of the Fort Hall Indian Reservation is tribally owned. The tribes claim full wildlife management authority throughout the reservation, but the Idaho Fish and Game Department has disputed tribal jurisdiction, especially for hunting by non-tribal members on reservation lands owned by non-Indians. As a compromise, since 1985, we have established the same waterfowl hunting regulations on the reservation and in a surrounding off-reservation State zone. The regulations were requested by the tribes and provided for different season dates than in the remainder of the State. We agreed to the season dates because they seemed to provide additional protection to mallards and pintails. The State of Idaho concurred with the zoning arrangement. We have no objection to the State's use of this zone again in the 2000–01 hunting season, provided the duck and goose hunting season dates are the same as on the reservation.

In a June 6, 2000, proposal for the 2000–01 hunting season, the Shoshone-Bannock Tribes requested a continuous duck (including mergansers) season with the maximum number of days and the same daily bag and possession limits permitted Pacific Flyway States, under final Federal frameworks. The tribes propose that, if the same number of hunting days are permitted as last year, the season would have an opening date of October 4, 2000, and a closing date of January 4, 2001. Coot and snipe season dates would be the same as for ducks, with the same daily bag and possession limits permitted Pacific Flyway States. The tribes anticipate harvest will be between 2,000 and 5,000 ducks.

The tribes also requested a continuous goose season with the maximum number of days and the same daily bag and possession limits permitted Idaho under Federal frameworks. The tribes propose that, if the same number of hunting days are permitted as in previous years, the season would have an opening date of October 4, 2000, and a closing date of January 11, 2001. The tribes anticipate harvest will be between 4,000 and 6,000 geese.

Nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours, use of steel shot, and manner of taking. Special regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

We note that the requested regulations are nearly identical to those of last year and propose they be approved for the 2000–01 hunting season.

(s) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)

The Squaxin Island Tribe of Washington and the Service have cooperated since 1995 to establish special tribal migratory bird hunting regulations. These special regulations apply to tribal members on the Squaxin Island Reservation, located in western Washington near Olympia, and all lands within the traditional hunting grounds of the Squaxin Island Tribe.

The Squaxin Island Tribe usually outlines their migratory bird hunting proposal through the Service's Region 1 Office, however, this year has not provided confirmatory information. The tribe would normally request establishing duck, coot, and snipe seasons that would run from September 15, 2000, through January 15, 2001. The daily bag limit for ducks would be five per day and could include only one canvasback. The season on harlequin ducks would be closed. For coots and snipe, the daily bag limit would be 25 and 8, respectively. For geese, the tribe would propose establishing a season that would run from September 15, 2000, through January 15, 2001. The daily bag limit for geese would be four per day and could include only two snow geese and one dusky Canada goose. The season on Aleutian and Cackling Canada geese would be closed. For brant, the tribe normally would propose establishing a September 15 to December 31, 2000, season with a daily bag limits of two birds per day. The tribe also would propose a September 15 to December 1, 2000, season for band-tailed pigeons with a daily bag limit of two per day.

In all cases, the possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to one-half hour after sunset, and steel shot would be required for migratory bird hunting. Further, the tribe requires all harvest be reported to their Natural Resources Office within 72 hours.

In 1995, the tribe reported no harvest of any species. Tribal regulations are enforced by the tribe's Law Enforcement Department. We propose to approve the Squaxin Island Tribe's 2000–01 special migratory bird hunting regulations, provided the tribe provides the appropriate confirmation for the seasons.

(t) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

In 1996, the Service and the Swinomish Indian Tribal Community began cooperating to establish special regulations for migratory bird hunting. The Swinomish Indian Tribal Community is a federally recognized Indian tribe consisting of the Suiattle, Skagit, and Kikialos tribes. The Swinomish Reservation was established by the Point Elliott Treaty of 1855 and lies in the Puget Sound area north of Seattle, Washington.

The Tribal Community usually outlines their migratory bird hunting proposal through the Service's Region 1 Office, however, this year has not provided confirmatory information. The tribe would normally request establishing an off-reservation duck, merganser, Canada goose, brant, and coot season opening on the earliest possible date allowed by the final Federal frameworks for the Pacific Flyway and closing 30 days after the State of Washington closes. Daily bag and possession limits would be the same as those allowed by the State except that the Swinomish request an additional three birds of each species over that allowed by the State.

The Community normally anticipates that the regulations will result in the harvest of approximately 200 to 300 ducks, 25 to 50 Canada geese, 75 mergansers, 100 brant, and 50 coot. The Swinomish also utilize a tag and permit system to monitor harvest and will implement steps to limit harvest where conservation is needed. All tribal regulations will be enforced by tribal fish and game officers.

On reservation, the Tribal Community would propose a hunting season for the above-mentioned species beginning on

the earliest possible opening date and closing March 9, 2001. The Swinomish manage harvest by a tagging system and anticipate harvest will be similar to that expected off reservation.

We believe the estimated harvest by the Swinomish will be minimal and will not adversely affect migratory bird populations. We propose to approve the Tribal Community's regulations for the 2000–01 season, provided the tribe provides the appropriate confirmation for the seasons.

(u) The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Nontribal Hunters)

The Tulalip Tribes are the successors in interest to the tribes and bands signatory to the Treaty of Point Elliott of January 22, 1855. The Tulalip Tribes' government is located on the Tulalip Indian Reservation at Marysville, Washington. The tribes or individual tribal members own all of the land on the reservation, and they have full wildlife management authority. All lands within the boundaries of the Tulalip Tribes Reservation are closed to nonmember hunting unless opened by Tulalip Tribal regulations.

In a June 6, 2000, letter, the Tulalip Tribes proposed tribal and nontribal hunting regulations for the 2000–01 season. For ducks and coot, the proposed season for tribal members would be from September 15, 2000, through February 1, 2001. In the case of nontribal hunters hunting on the reservation, the season would be the latest closing date and the longest period of time allowed for the State of Washington under final Pacific Flyway Federal frameworks. Daily bag and possession limits for Tulalip Tribal members would be 6 and 12 ducks, respectively, except that for blue-winged teal, canvasback, harlequin, pintail, and wood duck, the bag and possession limits would be the same as those established for the State of Washington in accordance with final Federal frameworks. For nontribal hunters, bag and possession limits would be the same as those permitted the State of Washington under final Federal frameworks. Nontribal members should check with the Tulalip tribal authorities regarding additional conservation measures which may apply to specific species managed within the region.

For geese, tribal members are proposed to be allowed to hunt from September 15, 2000, through February 1, 2001. Non-tribal hunters would be allowed the longest season and the latest closing date permitted for the State of Washington under final Federal frameworks. For tribal hunters, the goose daily bag and possession limits would be 6 and 12, respectively, except that the bag limits for brant, cackling Canada geese, and dusky Canada geese would be those established for the Pacific Flyway in accordance with final Federal frameworks. For nontribal hunters hunting on reservation lands, the daily bag and possession limits would be those established in accordance with final Federal frameworks for the State of Washington. The Tulalip Tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting.

All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other tribal regulations enforced by the tribe. Nontribal hunters 16 years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Both stamps must be validated by signing across the face of the stamp.

Although the season length requested by the Tulalip Tribes appears to be quite liberal, harvest information indicates a total take by tribal and nontribal hunters under 1,000 ducks and 500 geese, annually.

We propose approval of the Tulalip Tribe's request for the above seasons. We request that harvest be monitored closely and regulations be reevaluated for future years if harvest becomes too great in relation to population numbers.

(v) Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only)

The Wampanoag Tribe of Gay Head is a federally-recognized tribe located on the island of Martha's Vineyard in Massachusetts. The tribe has approximately 560 acres of land which it manages for wildlife through its natural resources department. The tribe also enforces its owns wildlife laws and regulations through the natural resources department.

For the 2000–01 season, the tribe proposes a duck season of October 10, 2000, to January 20, 2001. The tribe proposes a daily bag limit of six birds, which could include no more than two hen mallards, two black ducks (one black duck from December 2 to December 9, 2000), two mottled ducks, one fulvous whistling duck, four mergansers, three scaup, one hooded merganser, two wood ducks, one canvasback, two redheads, one pintails, and one hen eider. The season for harlequins would be closed. A daily bag limit of six teal would be in addition to the daily bag limit for ducks.

For sea ducks, the tribe proposes a season between October 14, 2000, and January 6, 2001, with a daily bag limit of seven, which could include no more than four of any one species.

For geese, the tribe requests a season between September 19, 2000, and January 20, 2001, with a daily bag limit of 4 Canada geese and 15 snow geese.

For woodcock, the tribe proposes a season between October 14 and November 15, 2000, with a daily bag limit of three.

The tribe currently has 20 registered triabl hunters and estimates harvest to be no more than 125 geese and 925 ducks. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR.

The Service proposes to approve the request for special migratory bird hunting regulations for the Wampanoag Tribe of Gay Head and requests that the tribe closely monitor harvest in this first season of establishing special migratory bird hunting regulations.

(w) White Earth Band of Chippewa, White Earth, Minnesota (Tribal Members Only)

The White Earth Band of Chippewa is a federally-recognized tribe located in northwest Minnesota and encompasses all of Mahnomen County and parts of Becker and Clearwater Counties. The reservation employs conservation officers to enforce conservation regulations. For the first time in the 2000–01 season, the tribe proposes to establish migratory bird hunting seasons on reservation lands.

Last year was the first year the tribe and the Service cooperated to establish special tribal regulations. This year, however, the tribe has not provided confirmatory information.

Based on last year, we assume the tribe would request a duck, merganser, and coot season of September 18 to November 30, 2000. The daily bag limit of seven could include no more than two mallards and one canvasback through September 24 and no more than two hen mallards and two canvasbacks through the remainder of the season. The merganser daily bag limit would be 5 with no more than 2 hooded mergansers, and the coot daily bag limit would be 20. For geese, the tribe would propose a September 1 to November 30, 2000, season with a daily bag limit of five geese.

For dove, rail, woodcock, and snipe, the tribe would propose a September 11 to December 1, 2000, season with daily bag limits of 25 rails, 10 snipe, 10 woodcock, and 25 doves. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required.

Based on past harvest surveys, we expect a harvest of less than 500 Canada geese and 1,000 ducks.

We propose to approve the White Earth Band of Chippewa's requested 2000–01 special migratory bird hunting regulations, provided the tribe provides the appropriate confirmation for the seasons.

(x) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters)

The White Mountain Apache Tribe owns all reservation lands, and the tribe has recognized full wildlife management authority. The White Mountain Apache Tribe has requested regulations that are essentially unchanged from those agreed to since the 1997–98 hunting year.

The hunting zone for waterfowl is restricted and is described as: the entire length of the Black River west of the Bonito Creek and Black River confluence and the entire length of the Salt River forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 5, 6, and 7. Tanks located below the Mogollon Rim, within Wildlife Management Units 2 and 3 will be open to waterfowl hunting during the 2000–01 season. All other waters of the reservation would be closed to waterfowl hunting for the 2000–01 season.

For nontribal and tribal hunters, the tribe proposes a continuous duck, coot, merganser, gallinule and moorhen hunting season, with an opening date of October 21, 2000, and a closing date of January 22, 2001. The tribe proposes a daily duck (including mergansers) bag limit of four, which may include no more than two redheads or one canvasback and one redhead, one pintail, and three mallards (including no more than one hen mallard). The daily bag limit for coots, gallinules and moorhens would be 25 singly, or in the aggregate. For geese, the tribe is proposing a season from October 21, 2000, through January 12, 2001. Hunting would be limited to Canada geese, and the daily bag limit would be three.

Season dates for band-tailed pigeons and mourning doves would run concurrently from September 6 through September 20, 2000, in Wildlife Management Unit 10 and all areas south of Y10 in Wildlife Management Unit 7, only. Proposed daily bag limits for band-tailed pigeons and mourning doves would be 3 and 10, respectively.

Possession limits for the above species are twice the daily bag limits. Shooting hours would be from one-half hour before sunrise to sunset. There would be no open season for sandhill cranes, rails, and snipe on the White Mountain Apache lands under this proposal. A number of special regulations apply to tribal and nontribal hunters, which may be obtained from the White Mountain Apache Tribe Game and Fish Department.

We propose to approve the regulations requested by the tribe for the 2000–01 seasons provided that the nontribal seasons conform to Treaty limitations and final Federal frameworks for the Pacific Flyway. For the 2000–01 season, outside Federal frameworks for ducks in the Pacific Flyway are September 30, 2000, through January 21, 2001.

(y) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Nontribal Hunters)

On May 11, 2000, the Yankton Sioux Tribe submitted a waterfowl hunting proposal for the 2000–01 season. The Yankton Sioux tribal waterfowl hunting season would be open to both tribal members and nontribal hunters. The waterfowl hunting regulations would apply to tribal and trust lands within the external boundaries of the reservation.

For duck (including mergansers) and coots, the Yankton Sioux Tribe proposes a season starting October 14, 2000, and running for the maximum amount of days allowed under the final Federal frameworks. Daily bag and possession limits would be the same as those adopted by the State of South Dakota. For geese, the tribe has requested a dark geese (Canada geese, brant, white-fronts) season starting October 28, 2000, and run for the maximum amount of days allowed under the final Federal frameworks. The daily bag limit would be three geese (including no more than one whitefront or brant). Possession limits would be twice the daily bag limit. For snow geese, the proposed hunting season would start October 28, 2000, and run for the maximum amount of days allowed under the final Federal frameworks. Daily bag and possession limits would be the same as those adopted by the State of South Dakota.

All hunters would have to be in possession of a valid tribal license while hunting on Yankton Sioux trust lands. Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours and the manner of taking. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

During the 1999–2000 hunting season, the tribe reported that 85 nontribal hunters took 170 Canada geese, 3 snow geese, and 100 ducks. Tribal members harvested less than 50 geese and 500 ducks.

We concur with the Yankton Sioux proposal for the 2000–01 hunting season.

Public Comment Invited

We intend that adopted final rules be as responsive as possible to all concerned interests and, therefore, desire to obtain the comments and suggestions of the public, other governmental agencies, nongovernmental organizations, and other private interests on these proposals. However, special circumstances are involved in the establishment of these regulations, which limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow the comment period past the date specified is contrary to the public interest.

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. We invite interested persons to participate in this rulemaking by submitting written comments to the address indicated under the caption **ADDRESSES**. You may inspect comments received on the proposed annual regulations during normal business

hours at the Service's office in room 634, 4401 North Fairfax Drive, Arlington, Virginia.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for 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.

For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date in the final rules.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the ''Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)'' was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). A supplement to the final environmental statement, the ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)'' was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). Copies of these documents are available from us at the address indicated under the caption **ADDRESSES**. In addition, an August 1985 Environmental Assessment titled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the same address.

Endangered Species Act Considerations

Prior to issuance of the 2000–01 migratory game bird hunting regulations, we will consider provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and that the proposed action is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental proposed rulemakings.

We will include findings from these consultations in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final rule will reflect any modifications. Our biological opinion resulting from the Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and Division of Migratory Bird Management, U.S. Fish and Wildlife Service, at the address indicated under the caption **ADDRESSES**.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $429 million and $1,084 million at small businesses in 1998. Copies of the Analysis are available upon request from the address indicated under the caption **ADDRESSES**.

Executive Order (E.O.) 12866

While this individual supplemental rule was not reviewed by the Office of Management and Budget (OMB), the migratory bird hunting regulations are economically significant and are annually reviewed by OMB under E.O. 12866.

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808 (1) .

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 9/30/2000). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this proposed rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals contained in this proposed rule, we have consulted with all the tribes affected by this rule.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Based on the results of soon-to-be-completed migratory game bird studies, and having due consideration for any data or views submitted by interested parties, this proposed rulemaking may result in the adoption of special hunting regulations for migratory birds beginning as early as September 1, 2000, on certain Federal Indian reservations, off-reservation trust lands, and ceded lands. Taking into account both reserved hunting rights and the degree to which tribes have full wildlife management authority, the regulations only for tribal members or for both tribal and nontribal members may differ from those established by States in which the reservations, off-reservation trust lands, and ceded lands are located. The regulations will specify open seasons, shooting hours, and bag and possession limits for rails, coot, gallinules (including moorhen), woodcock, common snipe, band-tailed pigeons, mourning doves, white-winged doves, ducks (including mergansers), and geese.

The rules that eventually will be promulgated for the 2000–01 hunting season are authorized under the Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), as amended. The MBTA authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

Dated: August 15, 2000.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–21158 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–55–U

Notices

Federal Register
Vol. 65, No. 161
Friday, August 18, 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.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability (NOFA) for Section 515 Rural Rental Housing Funds and Section 521 Rental Assistance for Needs Resulting From Hurricanes Dennis, Floyd, and Irene

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: This NOFA announces the availability of section 515 new construction and repair funds and section 521 rental assistance (RA) to meet needs resulting from hurricanes Dennis, Floyd, and Irene. This document describes the eligibility and submission requirements, the criteria that will be used to select requests for further processing, and the deadline for submitting applications.

DATES: The closing deadline for receipt of applications in response to this NOFA is 5 p.m., local time for each Rural Development State office on October 17, 2000. The application deadline is firm as to date and hour. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted. Notwithstanding this deadline, applicants who are prevented from filing by the time limit because of hurricanes Dennis, Floyd, and Irene may submit applications in accordance with the procedures described in Section V, ''Administrator's Reserve Requests.''

ADDRESSES: Applicants wishing to apply for assistance must contact the Rural Development State office serving the community for which they desire to submit an application to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. Following is a list of states with counties that were declared disaster areas as a result of hurricanes Dennis, Floyd, and Irene by the Federal Emergency Management Agency (FEMA), the Rural Development State Office address, telephone number, and person to contact:

Note: Telephone numbers listed are not toll-free.

Connecticut (Served by Massachusetts State Office), 451 West Street, Amherst, MA 01002, (413) 253–4333, TDD (413) 253–7068, Donald Colburn

Delaware and Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4353, TDD (302) 697–4303, Pat Baker

Florida State Office, 4440 N.W. 25th Place, PO Box 147010, Gainesville, FL 32614–7010, (352) 338–3465, TDD (352) 338–3499, Joseph P. Fritz

Maine State Office, 967 Illinois Ave., Suite 4, PO Box 405, Bangor, ME 04402–0405, (207) 990–9115, TDD (207) 942–7331, Dale D. Holmes

Maryland (See Delaware and Maryland State Office), New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6046, TDD (603) 229–0536, Jim Fowler

New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3631, TDD (609) 265–3687, George Hyatt, Jr.

New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6419, TDD (315) 477–6447, George N. Von Pless

North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2062, TDD (919) 873–2003, Eileen Nowlin

Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Gary Rothrock

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–3432, TDD (803) 765–5697, Larry D. Floyd

Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6028, TDD (802) 223–6365, Sandra Mercier

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1582, TDD (804) 287–1753, Carlton Jarratt

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Linda Armour, Senior Loan Officer, Multi-Family Housing Processing Division, Rural Housing Service, United States Department of Agriculture, Stop 0781, 1400 Independence Avenue, SW, Washington, DC, 20250, telephone (202) 720–1753 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Rural Rental Housing program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans. Rental Assistance is listed in the Catalog under Number 10.427, Rural Rental Assistance Payments.

Discussion of Notice

I. Authority and Distribution Methodology

A. Authority

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) provides RHS with the authority to make loans to any individual, corporation, association, trust, Indian tribe, public or private nonprofit organization, consumer cooperative, or partnership, to provide rental or cooperative housing and related facilities in rural areas for very-low, low, or moderate income persons or families, including elderly persons and persons with disabilities. Rental assistance (RA) is a tenant subsidy for very-low and low-income families residing in rural rental housing facilities with RHS financing and may be requested with applications for such facilities.

B. Section 515 funds for needs resulting from hurricanes Dennis, Floyd, and Irene

A total of $34,000,000 is available for applications received under this NOFA for needs resulting from hurricanes Dennis, Floyd, and Irene. Applications

received in response to this NOFA will be processed as follows:

1. New Construction Requests

New construction requests may be submitted to develop units in communities with a need for new rental housing as a result of the hurricanes. Applicants must provide documentation describing how the need for the housing is related to the hurricanes, for example, to replace housing that was lost or to provide affordable housing because of the loss of employment in the market area. Applications must be submitted to the Rural Development State office by the closing deadline, where they will be reviewed, scored, and ranked in accordance with 7 CFR part 1944, subpart E. States will provide a list of eligible applications to the National office for nationwide ranking and distribution of funds and RA. If new construction applications exceed the amount of available funds, preference in ranking will be given to applications to develop units in counties with the greatest number of approved disaster housing requests, based on data from the Federal Emergency Management Agency (FEMA).

New construction requests will be scored based on the following factors that are found in 7 CFR part 1944, subpart E:

(a) The presence and extent of leveraged assistance for the units that will serve RHS income-eligible tenants at basic rents comparable to those if RHS provided full financing, computed as a percentage of the RHS total development cost (TDC). RHS TDC excludes non-RHS eligible costs such as a developer's fee. Points will be awarded in accordance with the following table. (0 to 20 points)

Percentage of leveraging	Points
75 or more	20
70–74	19
65–69	18
60–64	17
55–59	16
50–54	15
45–49	14
40–44	13
35–39	12
30–34	11
25–29	10
20–24	9
15–19	8
10–14	7
5–9	6
0–4	0

(b) The units to be developed are in a colonia, tribal land, EZ, EC, or REAP community, or in a place identified in the State Consolidated Plan or State Needs Assessment as a high need community for multifamily housing. (''State'' in ''State Consolidated Plan'' and ''State Needs Assessment'' refers to the State government.) (20 points)

(c) The loan request includes donated land meeting the provisions of 7 CFR 1944.215(r)(4). (5 points)

2. Repair of Section 515 Properties or Replacement of Section 515 Units

Funds are available for requests to repair damage to section 515 properties caused by the hurricanes (funds may not be used for other non-hurricane related repair or rehabilitation needs), or to replace section 515 units destroyed by the hurricanes. The applicant must provide documentation that the damage was a result of the hurricanes.

C. Section 521 Rental Assistance (RA) for Needs Resulting From Hurricanes Dennis, Floyd, and Irene

Requests may be submitted for section 521 rental assistance (RA) as follows:

1. Requests for new construction funds may include a request for RA if needed for market feasibility.

2. Requests to repair or replace units may include a request for RA if the RA is needed as a result of the hurricanes, for example, because of a loss of jobs in the area due to hurricane damage.

3. Owners of section 515 properties who are not requesting funds may submit a RA-only request if RA is needed as a result of the hurricanes, for example, to assist tenants who have lost their jobs because of hurricane damage.

II. Funding Limits

Individual loan requests may not exceed $1.5 million.

III. Application Process

All applications for funds and RA must be filed with the appropriate Rural Development State office and must meet the requirements of 7 CFR part 1944, subpart E and section IV of this NOFA. Incomplete applications will not be reviewed and will be returned to the applicant. No application will be accepted after 5:00 p.m., local time, on the application deadline previously mentioned unless the date and time is extended by a Notice published in the **Federal Register**.

IV. Application Submission Requirements

A. Each application shall include all of the information, materials, forms and exhibits required by 7 CFR part 1944, subpart E, as well as comply with the provisions of this NOFA. Applicants are encouraged, but not required, to include a checklist and to have their applications indexed and tabbed to facilitate the review process. The Rural Development State office will base its determination of completeness of the application and the eligibility of each applicant on the information provided in the application.

B. Applicants are advised to contact the Rural Development State office serving the place in which they desire to submit an application to obtain an application package.

V. Administrator's Reserve Requests

An amount of $6,000,000 and any funds remaining from this NOFA will be placed in the Administrator's reserve and will be available until expended for needs resulting from hurricanes Dennis, Floyd, and Irene. Applications for the reserve must meet the application requirements described in this NOFA and, in addition, must provide documentation describing the reasons they were not able to be submitted by the NOFA deadline, for example, because of site or infrastructure issues. Applications will be reviewed, scored, and ranked by States in accordance with 7 CFR part 1944, subpart E. As applications are received and ranked, States will provide a list to the National Office for nationwide ranking and distribution of funds. The National ranking and distribution of funds will be done at the end of each 60-day period following the close of this NOFA until all funds are expended.

Dated: August 11, 2000.

William Simpson,

Acting Administrator, Rural Housing Service.

[FR Doc. 00–21032 Filed 8–17–00; 8:45 am]

BILLING CODE 3410–XV–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: September 18, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 30, 2000, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 F.R. 40608) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial, San Joaquin Valley Agricultural Science Center, Parlier, California

Laundry Service, James H. Quillen, VA Medical Center, Mountain Home, Tennessee

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Leon A. Wilson, Jr.,

Executive Director.

[FR Doc. 00–21091 Filed 8–17–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 18, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial, Naval Support Activity, Philadelphia, Pennsylvania
NPA: The Chimes, Inc., Baltimore, Maryland

Janitorial/Custodial, Defense Systems Management College (DSMC), Fort Belvoir, Virginia
NPA: Mt. Vernon-Lee Enterprises, Inc., Newington, Virginia

Janitorial/Grounds Maintenance, U.S. Coast Guard Air Station Sacramento, McClellan Air Force Base, California
NPA: PRIDE Industries, Roseville, California

Leon A. Wilson, Jr.,

Executive Director.

[FR Doc. 00–21092 Filed 8–17–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

''Proposed Addition to Procurement List'' Correction

In the document appearing on page 54862, FR Doc. 99–26369, in the issue of October 8, 1999, in the third column, the commodity listed as Postage Meter, NSN 7490–00–NSH–0001 has been withdrawn from consideration as a proposed addition to the Procurement List, effective August 18, 2000.

Leon A. Wilson, Jr.,

Executive Director.

[FR Doc. 00–21090 Filed 8–17–00; 8:45 am]

BILLING CODE 6353–01–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools From the People's Republic of China; Amended Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of Amended Final Results of Administrative Reviews.

SUMMARY: The Department of Commerce (''the Department'') is amending its final results of the February 1, 1998 through January 31, 1999 administrative reviews of the antidumping duty orders on heavy forged hand tools (''HFHTs'') from the People's Republic of China (''PRC''). This amendment of the final results, which were published on July 13, 2000 (65 FR 43290), is being made to reflect the correction of a ministerial error.

EFFECTIVE DATE: August 18, 2000.

FOR FURTHER INFORMATION CONTACT: Lyman Armstrong or James Terpstra, AD/CVD Enforcement Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W.,

Washington, D.C. 20230; telephone (202) 482–3601 or (202) 482–3965 respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are in reference 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 are to the Department's regulations, 19 CFR part 353 (1998).

Background

On July 13, 2000, the Department published its final results of administrative reviews of the antidumping duty orders on HFHTs from the PRC (65 FR 43290). The Department has now amended the final results of these reviews in accordance with section 751 of the Act.

On July 17, 2000, we received a timely submission from three respondents, Liaoning Machinery Import & Export Corporation, Shandong Huarong General Group Corporation, and Tianjin Machinery Import & Export Corporation (collectively ''respondents''), alleging that the Department made a ministerial error by failing to consider certain factual information on the record pertaining to the surrogate value for steel billets used to produce subject merchandise. Petitioner filed rebuttal comments on July 21, 2000. On July 25, 2000 respondents filed comments on petitioner's rebuttal.

After analyzing the submissions, we have determined, in accordance with 19 CFR 351.224, that a ministerial error was made in calculating the margins for respondents. Specifically, in determining the surrogate values for direct materials and packing materials, the Department inadvertently failed to consider certain Indian Import Statistics identified in respondents' March 28, 2000 submission. *See* Letter from Hume & Associates Regarding Surrogate Values (March 28, 2000). Although respondents alleged that the Department made a ministerial error solely with respect to billets, we have determined that our failure to consider all the factual information on the record in selecting surrogate values was not limited solely to billets. Rather, we found that the March 28, 2000 submission contained more complete information upon which to base the surrogate value not only for billets, but also for steel bar, packing materials and other direct materials. Examination of this information also led us to reject some of it as aberrant or not reflective of the type of material actually used to produce subject merchandise. Consequently, we are amending our final results by basing the surrogate values for steel billet, steel bar and all other direct materials and packing materials, other than pallets, on Indian Import statistics for the entire period of review (*i.e.,* Indian Import Statistics for February 1998 through August 1998, which were used in the final results, as well as statistics for September 1998 through January 1999, which were included in respondents' March 28, 2000 submission). For a detailed discussion of the ministerial error allegation and the Department's analysis, see Memorandum to Troy H. Cribb from Holly A. Kuga, dated August 1, 2000.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final results of the antidumping duty reviews of HFHTs from the PRC. The revised weighted-average dumping margins are listed in the ''Amended Final Results of the Reviews'' section below.

Scope of Reviews

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of these orders is dispositive.

Amended Final Results of the Reviews

Based on our review of the comments discussed above, for these amended final results we have made changes in our final margin calculations and determine that the following revised weighted-average margins exist for the period February 1, 1998, through January 31, 1999:

Manufacturer/exporter	Margin (percent)
Shandong Huarong General Group Corporation:	
Axes/Adzes	70.15
Bars/Wedges	28.96
Liaoning Machinery Import & Export Corporation: Bars/Wedges	29.10
Tianjin Machinery Import & Export Corporation:	
Axes/Adzes	70.15
Bars/Wedges	139.31
Hammers/Sledges	1.17
Picks/Mattocks	4.58
Shandong Machinery Import & Export Corporation:	
Axes/Adzes	70.15
Bars/Wedges	139.31
Hammers/Sledges	27.71
Picks/Mattocks	98.77
PRC-wide rates:	
Axes/Adzes	70.15
Bars/Wedges	139.31
Hammers/Sledges	27.71
Picks/Mattocks	98.77

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated an importer-specific duty assessment rate. With respect to both export price and constructed export price sales, we divided 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 the resulting percentage margins against the entered Customs values for the subject merchandise on each of the importer's entries under the order during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of the amended final results of the administrative reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit

rates for the reviewed companies will be the rates shown above; (2) for companies previously found to be entitled to a company-specific rate and for which no review was requested, the cash deposit rates will continue to be the company-specific rates published for the most recent period reviewed; (3) for all other PRC exporters of subject merchandise, the cash deposit rates will be the PRC country-wide rate indicated above; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative reviews.

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 (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under an 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 these determinations and this notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: August 4, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–21106 Filed 8–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–841]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From South Korea

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

ACTION: Amended final determination of antidumping duty investigation.

SUMMARY: On July 5, 2000, the Department of Commerce (''the Department'') published the final determination of its antidumping duty investigation of structural steel beams (''SSB'') from Korea (65 FR 41439). This investigation covers two respondents, Inchon Iron and Steel Co., Ltd. (''Inchon'') and Kangwon Industries, Ltd. (''Kangwon'').

Inchon and Kangwon submitted ministerial error allegations on July 6, 2000 with respect to the final determination. Petitioners also submitted allegations of ministerial errors on July 7, 2000. Inchon replied to petitioners allegations on July 11, 2000. Based on the correction of certain of these ministerial errors made in the final determination, we are amending our final determination.

EFFECTIVE DATE: August 18, 2000.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander (Inchon), Laurel LaCivita (Kangwon) or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0182 (Farlander), (202) 482–4243 (LaCivita) or (202) 482–3818 (Johnson).

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to the regulations set forth at 19 CFR part 351 (1998).

Scope of the Investigation

The products covered by this investigation are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams (''W'' shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products, are outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') is July 1, 1998 through June 30, 1999.

Amended Final Determination

On July 5, 2000, the Department published the final determination of its antidumping duty investigation of SSBs from Korea (65 FR 41439), which was signed on June 26, 2000. In accordance with 19 CFR 351.224(c), respondents (Inchon and Kangwon) and petitioners submitted ministerial error allegations on July 6, 2000 and July 7, 2000, respectively. Respondents replied to petitioners' allegations on July 11, 2000. Based on the correction of certain of these ministerial errors made in the final determination, we are amending our final determination for both respondents.

Inchon alleges four ministerial errors that we agree with, two pertaining to Kangwon and two pertaining to Inchon. Specifically, for Kangwon, we agree that: (1) We inadvertently deducted the wrong amount for amortization of gain on exemption of debt; and (2) we inadvertently amortized foreign exchange transaction losses in the interest expense ratio calculation. For Inchon, we agree that: (1) We inadvertently relied on the reported cost of manufacture for the U.S. cost of production, rather than the cost of manufacture as adjusted elsewhere in the Department's SAS programs; and (2) we inadvertently used the relative quantity of an input purchased from affiliates to identify the portion of the input which required an adjustment and then applied this adjustment to a certain cost, which is a value. For a further discussion of these issues, *see*

Ministerial Error Memorandum for the Amended Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Korea (''*Ministerial Error Memo*''), dated August 11, 2000.

We disagree with respect to the following alleged ministerial errors: (1) Petitioners' allegation that the Department's calculations of general and administrative (''G&A'') and interest expense do not reflect the revised total cost of manufacturing or revised total cost of manufacturing for constructed value; (2) Inchon's allegation that the Department's treatment of interest revenue as an offset to credit expense is an error and that, instead, interest revenue should be treated as a revenue field in the calculation of CEP profit. For a further discussion, *see* the *Ministerial Error Memo*. Thus, we did not make any adjustments for these alleged errors in the amended final determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the U.S. Customs Service (''Customs'') to suspend liquidation of all imports of subject merchandise from South Korea that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value (''NV'') exceeds the U.S. price (either export price (''EP'') and or constructed export price (''CEP'') as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade (GATT 1994) provides that ''[n]o product * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization.'' This provision is implemented in section 772(c)(1)(C) of the Tariff Act. Since antidumping duties cannot be assessed on the portion of the margin attributed to export subsidies there is no reason to require a cash deposit or bond for that amount. The Department has determined in its concurrent countervailing duty investigation for structural steel beams from Korea that the product under investigation benefitted from export subsidies. Normally, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below, minus the amount determined to constitute an export subsidy. *See, e.g. Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy*, 63 FR 49327, 49327 (September 15, 1998). Accordingly, for cash deposit purposes we are subtracting from Kangwon's cash deposit rate that portion of the rate attributable to the export subsidies found in the countervailing duty investigation involving Kangwon (*i.e.,* 0.09 percent). We have made the same adjustment to the ''All Others'' cash deposit rate by subtracting the rate attributable to export subsidies found in the countervailing duty investigation of Kangwon.

We will instruct the Customs Service to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the NV exceeds the EP or CEP, adjusting for the export subsidy rate, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The final amended weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)	Bonding/cash deposit rate (percent)
Inchon	25.31	25.31
Kangwon	49.01	48.92
All others	37.25	37.21

The rate for all other producers and exporters applies to all entries of the subject merchandise except for entries from exporters that are identified individually above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the U.S. International Trade Commission (''ITC'') of our amended final determination.

This amended final determination is issued and published in accordance with section 735(d) and 777(i)(1) of the Act.

Dated: August 10, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–21107 Filed 8–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–841]

Structural Steel Beams From South Korea: Notice of Antidumping Duty Order

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

ACTION: Notice of Antidumping Duty Order.

EFFECTIVE DATE: August 18, 2000.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Laurel LaCivita, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at (202) 482–0182, or (202) 482–4243, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department'') regulations are to the regulations codified at 19 CFR part 351 (April 1, 1998).

Final Determination and Amended Final Determination

On July 5, 2000, the Department determined that structural steel beams from South Korea are being, or likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735(a) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from South Korea,* 65 FR 41437 (July 5, 2000). On August 10, 2000, the Department signed an amended final determination which is being published concurrently with this antidumping duty order.

Scope of the Order

The products covered by this investigation are doubly-symmetric shapes, whether hot-or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are

not limited to, wide-flange beams (''W'' shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Antidumping Duty Order

On August 4, 2000, the International Trade Commission (''Commission'') notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain structural steel beams from South Korea.

In accordance with section 736(a)(1) of the Act, the Department will direct Customs officers 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 structural steel beams from South Korea, minus the amount determined to constitute an export subsidy, as discussed below. These antidumping duties will be assessed on all unliquidated entries of structural steel beams from South Korea entered, or withdrawn from warehouse, for consumption on or after February 11, 2000, the date on which the Department published its notice of preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Structural Steel Beams From South Korea,* 65 FR 6984 (February 11, 2000).

We note that in the companion countervailing duty investigation, the Department identified an export subsidy to Kangwon. *See Issues and Decision Memorandum: Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea—(Period of Investigation: January 1, 1998 Through December 31, 1998),* at 17 (June 26, 2000), for details on the export industry facility loan subsidy for Kangwon. This *Issues and Decision Memorandum* accompanied the *Final Affirmative Countervailing Duty Determination: Structural Steel Beams From the Republic of Korea,* 65 FR 41051 (July 3, 2000). Therefore, for cash deposit purposes, we are subtracting from Kangwon's cash deposit rate that portion of the rate attributable to the export subsidies found in the countervailing duty investigation involving Kangwon (*i.e.,* 0.09 percent). *See* section 772(c)(1)(C) of the Act and *see, e.g., Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy,* 63 FR 49327 (September 15, 1998). We have made the same adjustment to the ''All Others'' cash deposit rate by subtracting the rate attributable to export subsidies found in the countervailing duty investigation of Kangwon. (The ''All Others'' rate applies to all exporters of subject structural steel beams not specifically listed.)

We will instruct the Customs Service to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the NV exceeds the EP or CEP, adjusting for the export subsidy rate, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The ''All Others'' rate applies to all exporters of subject structural steel beams not specifically listed. The final amended weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (Percent)	Bonding/cash deposit rate (Percent)
Inchon	25.31	25.31
Kangwon	49.01	48.92
All others	37.25	37.21

This notice constitutes the antidumping duty order with respect to structural steel beams from South Korea. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: August 10, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–21108 Filed 8–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081500CM]

Nominations for Federal Advisory Committee on Marine Protected Areas

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of request for nominations.

SUMMARY: The Department of Commerce is establishing a Federal Advisory Committee on Marine Protected Areas (MPA) pursuant to Executive Order 13158 and is seeking nominations for membership on this Committee.

DATES: Nominations must be postmarked on or before October 2, 2000.

ADDRESSES: Nominations should be sent to Office of Policy and Strategic Planning, NOAA, 14th and Constitution Avenue, NW, Room 6117, Washington, DC 20230 ATTN: Federal Advisory Committee on Marine Protected Areas.

FOR FURTHER INFORMATION CONTACT: Anne Marie Goldsmith, NOAA, (202) 482–2160. E-mail: Anne.Marie.Goldsmith@noaa.gov.

SUPPLEMENTARY INFORMATION: In Executive Order 13158, the Department of Commerce and the Department of the Interior were directed to seek the expert advice and recommendations of non-Federal scientists, resource managers, and other interested persons and organizations through a Marine Protected Areas Federal Advisory Committee. The Advisory Committee will provide advice and recommendations to the Secretary of Commerce and the Secretary of the Interior in implementing Section 4 of the Executive Order, and specifically on strategies and priorities for developing a national system of MPAs and on practical approaches to further enhance and expand protection of new and existing MPAs.

Initial committee members will be selected for two or three year terms of service. The Committee will meet at least once annually; however, members of subcommittees, task forces, and/or working groups established by the

Committee may meet on a more frequent basis. Members of the Committee will not be compensated, but may upon request, be allowed travel and per diem expenses.

The Department of Commerce is seeking approximately 30 highly qualified individuals to serve on the Marine Protected Areas Federal Advisory Committee. Nominations are sought for non-Federal scientists, resource managers, and persons representing other interests or organizations involved with or affected by marine conservation. Individuals seeking membership on the Advisory Committee should possess demonstrable expertise in a related field or represent a stakeholder interest affected by MPAs. Nominees will also be evaluated based on the following factors: marine policy experience, leadership and organizational skills, region of country represented, and diversity characteristics.

Nominations are encouraged from all interested parties, such as scientific societies; academic and research institutions; groups or governments representing Native Americans, Alaska Natives, Native Hawaiians, Carribean Islanders and Pacific Islanders; states, territories and localities; interest groups such as the fishing (recreational and commercial), boating, diving, recreational, maritime, historical and philanthropic communities; conservation organizations; and Federal agencies. (NOTE: No Federal agency employees may be appointed to serve on the Committee, but nominations for non-federal employees will be accepted from Federal agencies).

Each submission should include the submitting person's or organization's name and affiliation, a cover letter describing the nominee's qualifications and interest in serving on the Committee, a curriculum vitae or resume of nominee, and no more than three supporting letter(s) describing the qualifications of the nominee. Self nominations are acceptable. The following contact information should accompany each nominee's submission: name, address, phone number, fax number, and e-mail address.

Nominations should be sent to (see **ADDRESSES**) and nominations must be received by (see **DATES**). The full text of the executive order can be found at the following address: www.mpa.gov.

Dated: August 11, 2000.

D. James Baker,

Under Secretary for Oceans and Atmosphere, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 00–21101 Filed 8–17–00; 8:45 am]

Billing Code: 3510–12 –S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081000A]

Marine Mammals; File No. 684–1458

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. Donald B. Siniff, University of Minnesota, Department of Ecology, Evolution and Behavior, 100 Ecology Building, 1987 Upper Buford Circle, St. Paul, MN 55108, has been issued an amendment to scientific research Permit No. 684–1458.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 (562/980–4001).

FOR FURTHER INFORMATION CONTACT: Simona Roberts or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On June 7, 2000, notice was published in the Federal Register (65 FR 36120) that an amendment of Permit No. 684–1458, issued August 7, 1998 (63 FR 43914), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 684–1458 authorizes the permit holder to capture, tag, sample, and lavage Weddell seals (Leptonychotes weddellii) of all age and sex classes on McMurdo Sound in the Antarctic.

The permit amendment authorizes the attachment of VHF transmitters on adult female Weddell seals, and the application of a series of instrument packages that contain: a 3MPDT logger(3-dimensional, magnetic data recorder), DSL (digital still camera), DU (ultrasonic depth sounder), PD2GT (speed, acceleration, depth, and temperature recorder) and ECG (electrocardiogram monitor) to male and female Weddell seals of all age classes. For attachment of the instrument package, the permit holder is authorized to anesthetize seals with the drug Sevoflurane. The amendment also authorizes an increase in the number of adult female Weddell seals captured (400 to 500), the number of adult male Weddell seals fitted with VHF transmitters (30 to 100) and the number of Weddell seal pups fitted with satellite-linked radio transmitters and the PD2GT and ECG instruments (20 to 50).

Dated: August 11, 2000.

Ann Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–21099 Filed 8–17–00; 8:45 am]

Billing Code: 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force A–76 Initiatives Cost Comparisons and Direct Conversions (As of 30 June 2000)

The Air Force is in the process of conducting the following A–76 initiatives. Cost comparisons are public-private competitions. Direct conversions are functions that may result in a conversion to contract without public competition. These initiatives were announced and in-progress as of 30 June 2000, include the installation and state where the cost comparison or direct conversion is being performed, the total authorizations under study, public announcement date and actual or anticipated solicitation date. The following initiatives are in various stages of completion.

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation Issued or Scheduled Date
ANDREWS	MD	GROUNDS MAINTENANCE	9	17–Dec–98 ..	12–May–00
ANDREWS	MD	AIRCRAFT MAINTENANCE AND SUPPLY.	815	25–Jul–97 ...	26–May–99
ANDREWS	MD	COMMUNICATION FUNCTIONS	181	04–Oct–99 ..	26–Sep–01
ANDREWS	MD	HEATING SYSTEMS	22	17–Dec–98 ..	18–Feb–00
AVON PARK	FL	RANGE OPERATIONS	38	22–Dec–99 ..	15–Oct–00
BARKSDALE	LA	PROTECTIVE COATING	13	14–Dec–98 ..	01–Jul–00
BEALE	CA	BASE OPERATING SUPPORT	383	08–Sep–99 ..	07–Mar–01
BOLLING	DC	SUPPLY AND TRANSPORTATION	138	01–Dec–98 ..	12–Sep–00
CARSWELL	TX	BASE OPERATING SUPPORT	69	03–Feb–00 ..	05–Jun–01
CHEYENNE MTN	CO	CIVIL ENGINEERING	139	08–May–98	24–Sep–99
DAVIS MONTHAN	AZ	BASE SUPPLY	35	04–Jan–00 ..	30–Aug–00
EDWARDS	CA	TRANSIENT AIRCRAFT MAINTENANCE/ AEROSPACE GROUND EQUIPMENT.	146	06–Nov–98 ..	09–Jun–00
EDWARDS	CA	BASE OPERATING SUPPORT	553	09–Dec–98 ..	08–Nov–00
EGLIN	FL	ADMINISTRATIVE SUPPORT	52	22–Sep–99 ..	29–Sep–00
EGLIN	FL	CIVIL ENGINEERING	200	03–Dec–96 ..	21–Jul–98
EIELSON	AK	COMMUNICATIONS OPERATIONS AND MAINTENANCE.	63	29–Oct–99 ..	05–Aug–00
ELMENDORF	AK	COMMUNICATIONS OPERATIONS AND MAINTENANCE.	81	05–Jan–00 ..	03–Sep–00
ELMENDORF	AK	BASE SUPPLY	208	26–Mar–99 ..	21–Apr–00
FAIRCHILD	WA	HEATING SYSTEMS	16	16–Mar–99 ..	01–Mar–00
GREATER PITTSBURG	PA	BASE OPERATING SUPPORT	77	13–Jun–96 ..	10–Nov–99
GRISSOM	IN	BASE OPERATING SUPPORT	133	13–Jun–96 ..	01–Oct–99
HANSCOM AFB	MA	BASE SUPPLY	70	10–Nov–98 ..	01–May–00
HANSCOM AFB	MA	EDUCATION/TRAINING AND PERSONNEL.	17	25–Nov–98 ..	20–Apr–00
HANSCOM AFB	MA	CIVIL ENGINEERING	201	09–Dec–98 ..	25–Feb–00
HILL AFB	UT	BASE OPERATING SUPPORT	576	30–Sep–98 ..	20–Sep–00
HOLLOMAN AFB	NM	TEST TRACK	125	18–Nov–99 ..	25–Aug–00
HOLLOMAN AFB	NM	MILITARY FAMILY HOUSING MAINTENANCE.	66	12–May–97	14–Jan–00
HURLBURT COM FL	FL	ADMINISTRATIVE SUPPORT	33	28–Apr–99 ..	09–Mar–01
HURLBURT COM FL	FL	COMMUNICATION FUNCTIONS	50	31–Jul–98 ...	19–Sep–00
HURLBURT COM FL	FL	BASE SUPPLY	33	15–Jul–98 ...	17–Feb–00
HURLBURT COM FL	FL	ENVIRONMENTAL	7	22–Jun–00 ..	TBD
HURLBURT COM FL	FL	HOUSING MANAGEMENT	12	08–Jun–00 ..	TBD
KEESLER	MS	MULTIPLE SUPPORT FUNCTIONS	741	21–Sep–99 ..	19–Dec–00
LACKLAND	TX	MULTIPLE SUPPORT FUNCTIONS	1440	26–Jan–99 ..	09–Aug–99
LANGLEY	VA	GENERAL LIBRARY	11	22–Dec–98 ..	07–Jun–00
MAXWELL	AL	MULTIPLE SUPPORT FUNCTIONS	814	28–Apr–98 ..	22–Mar–99
MCCHORD	WA	GROUNDS MAINTENANCE	10	14–Jun–99 ..	01–Jul–00
MULTIPLE INSTL		ADMINISTRATIVE SWITCHBOARD	44	19–Jun–97 ..	30–Sep–00
CROUGHTON	UK				
FAIRFORD	UK				
LAKENHEATH	UK				
MILDENHALL	UK				
MOLESWORTH	UK				
MULTIPLE INSTLNS		PRECISION MEASUREMENT EQUIPMENT LABORATORY (PMEL).	1516	24–Sep–98 ..	29–Oct–99
MULTIPLE INSTLNS		COMMUNICATION FUNCTIONS	208	03–Aug–99 ..	01–Aug–00
LANGLEY	VA				
HILL AFB	UT				
MULTIPLE INSTLNS		EDUCATION SERVICES	149	07–Jan–99 ..	01–Feb–00
HOWARD	PANMA				
MOODY	GA				
MINOT	ND				
MT HOME	ID				
NELLIS	NV				
SHAW	SC				
WHITEMAN	MO				
LAJES	AZORE				
ELLSWORTH	SD				
SEYMOUR JOHNSON	NC				
HOLLOMAN	NM				
DYESS	TX				
DAVIS MONTHAN	AZ				
CANNON	NM				
BARKSDALE	LA				
KEFLAVIK	ICELD				

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation Issued or Scheduled Date
LANGLEY	VA				
BEALE	CA				
MULTIPLE INSTLNS		ADMINISTRATIVE SWITCHBOARD	50	19–Jun–97	30–Sep–00
RAMSTEIN	GERMY				
SEMBACH	GERMY				
SPANGDAHLEM	GERMY				
MULTIPLE INSTLNS		TRANSIENT AIRCRAFT MAINTENANCE	15	07–Jul–99	29–May–00
LAKENHEATH	UK				
MILDENHALL	UK				
MULTIPLE INSTLNS		COMMUNICATION FUNCTIONS	141	11–Mar–99	14–Apr–00
GENERAL MITCHELL	WI				
WESTOVER	MA				
MINN–ST PAUL	MN				
YOUNGSTOWN	OH				
WILLOW GROVE	PA				
GRISSOM	IN				
PITTSBURG	PA				
MARCH	CA				
HOMESTEAD	FL				
CARSWELL	TX				
NEW ORLEANS	LA				
MULTIPLE INSTLNS		TRANSIENT AIRCRAFT MAINTENANCE	24	07–Jul–99	31–Jul–00
RAMSTEIN	GERMY				
SPANGDAHLEM	GERMY				
MULTIPLE INSTLNS		MULTIPLE SUPPORT FUNCTIONS	124	14–Jul–99	30–Dec–00
CROUGHTON	UK				
FAIRFORD	UK				
MOLESWORTH	UK				
NEW BOSTON	NH	BASE OPERATING SUPPORT	48	03–Dec–97	01–Aug–00
OFFUTT	NE	BASE OPERATING SUPPORT	1608	30–Sep–98	15–Aug–00
PATRICK	FL	SUPPLY AND TRANSPORTATION	43	14–May–98	01–Aug–00
PETERSON	CO	PERSONNEL SERVICES	92	05–Jan–00	01–Dec–00
ROBINS	GA	ENVIRONMENTAL	49	07–Jun–00	15–Feb–01
ROBINS	GA	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	17	17–Mar–99	01–May–00
ROBINS	GA	BASE SUPPLY	133	01–Apr–99	28–Jul–00
ROBINS	GA	EDUCATION SERVICES	57	07–Jan–99	06–Jul–00
SCOTT	IL	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	178	19–Mar–98	16–Aug–99
SCOTT	IL	PERSONNEL SERVICES	236	25–Jun–99	19–Feb–01
SEMBACH	GERMY	COMMUNICATION FUNCTIONS	48	18–Dec–98	31–Jul–00
SHEPPARD	TX	MULTIPLE SUPPORT FUNCTIONS	493	21–Sep–99	31–Jul–00
TINKER	OK	BASE SUPPLY	152	30–Nov–98	17–Nov–99
TINKER	OK	EDUCATION SERVICES	65	16–Nov–98	17–Nov–99
TINKER	OK	ENVIRONMENTAL	55	24–Nov–98	12–Nov–99
TRAVIS	CA	VEHICLE OPERATIONS AND MAINTENANCE.	131	15–Jul–98	10–Jul–00
USAF ACADEMY	CO	CIVIL ENGINEERING	497	01–Dec–98	24–Mar–00
USAF ACADEMY	CO	COMMUNICATION FUNCTIONS	114	20–May–99	31–Jul–00
USAF ACADEMY	CO	FOOD SERVICES	297	08–May–98	21–Apr–99
USAF ACADEMY	CO	BASE OPERATING SUPPORT	108	08–May–98	09–May–00
WHITEMAN	MO	UTILITIES PLANT	11	18–Aug–99	01–Jun–00
WRIGHT PATTERSON	OH	LABORATORY SUPPORT SERVICES	127	21–Aug–98	29–Oct–99
DIRECT CONVERSIONS					
ANDERSEN	GUAM	AIR TRAFFIC CONTROL	12	14–Sep–99	30–Jun–00
ASHEVILLE	NC	COMPUTER SYSTEMS MAINTENANCE	10	17–Feb–99	14–Jun–00
BOLLING	DC	EDUCATION/TRAINING AND PERSONNEL.	12	01–May–00	TBD
CANNON	NM	PROTECTIVE COATING	2	07–Jan–99	15–Aug–00
CHEYENNE MTN	CO	COMMUNICATION FUNCTIONS	385	08–May–98	01–Dec–99
COLUMBUS	MS	SURVIVAL EQUIPMENT	29	18–Apr–00	TBD
DAVIS MONTHAN	AZ	RAILROAD TRANSPORTATION SERVICES.	2	11–Aug–98	12–Jun–00
DYESS	TX	ENVIRONMENTAL	5	05–Jun–00	15–Jul–00
EDWARDS	CA	LIBRARY	7	09–Dec–98	28–Jul–00
EIELSON	AK	SUPPLY IEE	8	17–May–00	01–Sep–00
ELLSWORTH	SD	ENVIRONMENTAL	7	05–Nov–98	14–Apr–00
F E WARREN	WY	BASE COMMUNICATIONS	105	30–Oct–97	10–Aug–00
GRAND FORKS	ND	MUNITIONS MAINTENANCE	5	17–May–99	13–Oct–00

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation Issued or Scheduled Date
HICKAM	HI	AIR MOBILITY OPERATIONS CONTROL CENTER (AMOCC).	53	29–Oct–99 ..	01–Jul–00
HURLBURT COM FL	FL	SUPPLY RETAIL SALES SECTION	10	15–Jul–98 ...	17–Feb–00
KIRTLAND	NM	ENVIRONMENTAL	32	24–Nov–98 ..	17–Jul–00
KIRTLAND	NM	RECREATIONAL SUPPORT	9	12–Jan–99 ..	17–Jul–00
KIRTLAND	NM	EDUCATION SERVICES	12	26–Oct–98 ..	20–Mar–00
KIRTLAND	NM	FOOD SERVICES	15	29–Oct–99 ..	10–Jul–00
KIRTLAND	NM	GENERAL LIBRARY	4	12–Jan–99 ..	17–Jul–00
KIRTLAND	NM	CIVIL ENGINEERING	360	09–Dec–98 ..	16–Feb–00
LACKLAND	TX	FOOD SERVICES	20	20–Dec–99 ..	05–Jun–00
LACKLAND	TX	FACILITIES SERVICES MAINTENANCE	63	07–Feb–00 ..	14–May–00
LANGLEY	VA	COMMUNICATION FUNCTIONS	8	23–Mar–99 ..	01–Aug–00
LANGLEY	VA	DATA PROCESSING EQUIPMENT OPERATIONS.	15	04–Nov–99 ..	15–Sep–00
LANGLEY	VA	AIRCRAFT FLEET SERVICES	11	29–Jun–99 ..	25–Jul–00
LANGLEY	VA	COMMUNICATIONS ADMINISTRATION AND INFORMATION FUNCTION.	13	31–Jan–00 ..	01–Aug–00
MALMSTROM	MT	BASE COMMUNICATIONS	85	06–Oct–97 ...	15–Aug–00
MAXWELL	AL	EDUCATION SERVICES	35	31–Jul–98 ...	15–Jan–00
MCGUIRE	NJ	HEATING SYSTEMS	6	04–May–99	31–Aug–00
MCGUIRE	NJ	FURNISHINGS MANAGEMENT	2	14–May–99	01–Sep–00
MINOT	ND	GROUNDS MAINTENANCE	9	18–May–99	23–Oct–00
MT HOME	ID	GROUNDS MAINTENANCE	6	20–Jul–99	09–Jul–00
MULTIPLE INSTLNS		LINEN	11	17–Jun–99 ..	22–Jul–00
RAMSTEIN	GERMY				
SPANGDAHLEM	GERMY				
LAKENHEATH	UK				
MILDENHALL	UK				
NELLIS	NV	COMMUNICATION FUNCTIONS	9	22–Dec–98 ..	18–Nov–99
OFFUTT	NE	COMPUTER OPERATIONS	76	17–Feb–99 ..	15–Jul–00
RANDOLPH	TX	COURSEWARE DEVELOPMENT	38	30–Sep–99 ..	30–Jun–00
ROBINS	GA	AIRFIELD MANAGEMENT	10	06–Jun–00 ..	01–Dec–00
ROBINS	GA	GENERAL LIBRARY	6	23–Nov–99 ..	07–Aug–00
ROBINS	GA	PROTECTIVE COATING	8	18–Jan–00 ..	24–Sep–00
SCHRIEVER	CO	FOOD SERVICES	18	02–Sep–99 ..	01–Nov–00
SCOTT	IL	FURNISHINGS MANAGEMENT	3	07–Aug–98 ..	01–Jul–00
SCOTT	IL	MISCELANEOUS ACTIVITIES	2	18–Mar–99 ..	20–Mar–00
SCOTT	IL	ADMINISTRATIVE SWITCHBOARD	86	05–Aug–99 ..	27–Nov–00
SHAW	SC	COMMUNICATION FUNCTIONS	3	18–May–99	04–Sep–00
SHAW	SC	ENVIRONMENTAL	2	22–Mar–00 ..	13–Jul–00
TINKER	OK	SOFTWARE PROGRAMMING	67	08–May–00	01–Dec–00
VANCE	OK	SURVIVAL EQUIPMENT	22	04–Feb–00 ..	21–Oct–99
VANDENBERG AFB	CA	MISSILE STORAGE & MAINTENANCE	66	14–Apr–99 ...	18–Dec–99

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–21062 Filed 8–17–00; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of National Oceanographic Partnership Program Ocean Research Advisory Panel Meeting

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Ocean Research Advisory Panel (ORAP) will meet to discuss National Oceanographic Partnership Program (NOPP) activities. This meeting will be open to the public.

DATES: The meeting will be held on Tuesday, October 3, 2000, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Carnegie Endowment, Choate Room, 1779 Massachusetts Avenue, NW, Washington DC.

FOR FURTHER INFORMATION CONTACT: Dr. Steven E. Ramberg, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5660, telephone number: (703) 696–4358.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). Members of the public should submit their comments one week in advance of the meeting to the meeting Point of Contact. In order to maintain the meeting time schedule, members of the public will be limited in their time to speak to the Panel. The purpose of this meeting is to discuss NOPP activities. The meting will include discussions on ocean observations, current and future NOPP activities, and other current issues in the ocean sciences community.

Dated: August 8, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–21063 Filed 8–17–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 17, 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 Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 14, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: The Integrated Studies of Educational Technology (ISET): Evaluation of Educational Technology Policy and Practice for the 21st Century—School and Teacher Surveys.

Frequency: One report in 2001, one report in 2002.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 2,000

Burden Hours: 3,000

Abstract: Through the Technology Literacy Challenge Fund (TLCF) and the E-Rate program (as well as other programs), the federal government is currently playing a large role in the total investment in technology for education and the professional development of teachers to incorporate educational technology into the overall repertoire of curricular and instructional strategies that schools have available to help students achieve high standards. The ISET studies overall and the two specific studies presented in this submission seek to clarify the role and use of instructional technology, including the interaction of theTLCF and E-Rate programs with each other and with state and local education technology programs in the broader context of education policy.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, 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. 00–21042 Filed 8–17–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 18, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wai-Sinn Chan, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address Wai-Sinn_L._Chan@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 14, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Annual Performance Report for the Smaller Learning Communities Grant Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 161

Burden Hours: 1,288

Abstract: This Annual Performance Report will allow the Department of Education to collect data required by the

Government Performance and Results Act (GPRA) and by House Appropriations language that established the Smaller Learning Communities grant program [H.R. 3424, 106th Congress (Appropriations 2000)].

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, 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 Kathy Axt at via her internet address Kathy_Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–21040 Filed 8–17–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 18, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wai-Sinn Chan, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address Wai-Sinn_L._Chan@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 14, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Comprehensive School Reform Demonstration Field Focused Studies.

Frequency: Semi-Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2

Burden Hours: 324

Abstract: This study is being conducted as part of the national evaluation of the Comprehensive School Reform Demonstration Program. The study will examine the link among three components—school reform processes, instruction and other educational activities, and student achievement.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, 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. 00–21041 Filed 8–17–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–98–G]

Application To Amend Electricity Export Authorization; Western Systems Power Pool

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Western Systems Power Pool (''WSPP'') has filed an application on behalf of a member to amend its electricity export authorization issued September 5, 1996, in Order EA–98–C. The application requests that one new member of WSPP be authorized to export electricity to Canada. The application also requests expedited consideration.

DATES: Comments, protests or requests to intervene must be submitted on or before September 5, 2000.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Coal & Power, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. Sec. 824a(e)).

On September 5, 1996, in Docket EA–98–C, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized 42 members of the WSPP to export electric energy to Canada. On March 24, 1997, and again on May 5, 1997, FE amended the authorization issued to WSPP to add additional members. The facilities utilized for these exports are the international transmission facilities owned and operated by the Bonneville Power Administration (BPA), also a WSPP member. The facilities consist of two 500–kV transmission lines at Blaine, Washington, and one 230–kV transmission line at Nelway, British Columbia, that interconnect with facilities of BC Hydro, and one 230–kV

line, also at Nelway, connecting to West Kootenay Power, Limited. The construction and operation of these international transmission facilities was previously authorized by Presidential Permits PP–10, PP–46, and PP–36, respectively.

On August 3, 2000, WSPP submitted an application to amend the export authorization by adding one new member company to the list of authorized electricity exporters. The new member is Candela Energy Corporation (Candela). In addition, WSPP requests expedited treatment of the application to allow Candela to begin transacting business under the authorization as quickly as possible.

Procedural Matters: Any persons desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with Secs. 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with: Michael E. Small, Esq., Wright & Talisman, P.C., 1200 G Street, Suite 600, Washington, D.C. 20005.

DOE has granted WSPP's request for expedited treatment of its application and has reduced the normal 30-day public comment period to 15 days.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on August 14, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00–21122 Filed 8–17–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 00–18; Microbial Genome Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications for grants in support of the Microbial Genome Program (MGP), focused on microbes of interest to the DOE, *e.g.* those involved in environmental processes, including waste remediation, carbon management, energy production and biotechnology. This announcement is focused on (1) whole genome functional analyses of genomic information from microorganisms; (2) bioinformatics tools for microbial genome annotation; (3) characterization of microbial genomic plasticity, *e.g.* lateral gene transfers and other forms of genomic information transfer; (4) novel technologies for comparative microbial genome sequencing that exploit previously sequenced microbial genomes; and (5) technologies to assess consortia and environmental diversity of hard-to-culture microbes. This announcement represents a significant departure from past MGP announcements in that the DOE will not solicit applications to continue high throughput sequencing of microbial genomes. Rather, this is a shift in emphasis to exploiting already sequenced genomes to address DOE mission needs.

DATES: Preapplications referencing Program Notice 00–18 should be received by October 2, 2000.

Formal applications in response to this notice should be received by 4:30 p.m., e.s.t., December 14, 2000, to be accepted for merit review and funding in FY 2001.

ADDRESSES: Preapplications referencing Program Notice 00–18 should be sent to Dr. Daniel W. Drell, Office of Biological and Environmental Research, SC–72, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290; e-mail is acceptable for submitting preapplications using the following address:

joanne.corcoran@science.doe.gov.

Formal applications referencing Program Notice 00–18, should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 00–18. This address must be used when submitting applications by U.S. Postal Service Express Mail or any commercial mail delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel W. Drell, SC–72, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–4742, e-mail: daniel.drell@science.doe.gov. The full text of Program Notice 00–18 is available via the Internet using the following web site address: http://www.sc.doe.gov/production/grants/grants.html.

SUPPLEMENTARY INFORMATION: The Microbial Genome Program (MGP) supports key DOE business areas by providing microbial DNA sequence information that will further the understanding and application of microbiology relating to energy production, chemical and materials production, environmental carbon management, and environmental cleanup. The elucidation of microbial genome sequences is a natural outgrowth of past and current Biological and Environmental Research (BER) Programs, including DNA sequencing from the Human Genome Program, structural biology studies utilizing BER-supported facilities and synchrotrons located at DOE laboratories, and molecular microbiological research supported by BER environmental programs. The MGP benefits directly from capabilities at DOE national laboratories, DOE and National Institutes of Health Human Genome Centers, the National Center for Biotechnology Information (NCBI) at the National Institutes of Health (NIH), and the capabilities of universities and non-profits. The MGP represents a considerable interdisciplinary effort and will contribute to and draw from a wide variety of public and private programs. Over the last 5 years, sequencing of microorganisms that live in extreme environments (including the deep subsurface, geothermal environments, hypersaline environments, high-radiation environments, and toxic waste sites) has provided a considerable information base for scientific research related not only to DOE missions but also to other federal agency missions, and U.S. industry. Applications are now being sought in five complementary areas: whole-genome functional analyses, bioinformatics applied to

microbial genome sequences, characterization of microbial genomic plasticity, novel microbial sequencing approaches, and the characterization of the diversity of microbial consortia and/or hard-to-culture microbes that mediate processes of relevance to the DOE. Each application must clearly state which area is being addressed; if an applicant wishes to address more than one area, the application must clearly describe the expected advantages of an integrated approach.

Candidate microorganisms for study can comprise archaea, bacteria, or communities made up of bacteria and/or archaea that mediate or catalyze metabolic events of energy or environmental importance. Preference will be given to those applicants using microbes for which complete or near-complete genomic sequencing information in the public domain exists. (See http://www.ornl.gov/microbialgenomes/organisms.html for a current list of microbes that have been and are being sequenced.) Priority will be given to studies on those microbes that can bioremediate metals and radionuclides, microbes that can degrade significant biopolymers such as celluloses and lignins or microbes that are involved in environmental carbon management, *e.g.* fix or sequester CO_2. Finally, microbes that participate in consortia with already-sequenced species are of interest. Strict pathogens or parasites will not be considered.

(1) *Functional Analysis.* It is presently difficult, and in many instances impossible, to predict biological function from microbial genomic sequence data, even when the entire genome has been sequenced and published and is available for inspection. Better experimental and computational methods are needed to identify novel open reading frames and predict their functions at a whole-genome scale, particularly from completely sequenced microbial genomes. Accordingly, applications are requested that will develop better ways to interpret sequence data from novel open reading frames, and even whole genomes, using both comparative genomic approaches as well as novel analyses. The DOE MGP is particularly interested in the use of sequence data for whole genome approaches to functional prediction, functional regulation, functional categorization (*e.g.* transporters, environmental sensors, redox enzymes, cytoskeletal components, DNA repair systems, metal reductases, biodegradative enzymes, etc.) as well as those approaches that identify and distinguish rare or unique ORFs that can be linked to restricted environmental niches or DOE-relevant bioremediation capacities. Identification of domains in gene sequences that mediate protein-protein interactions are also of great interest. Applicants should focus on microbes of mission interest to the DOE, as described above. It is estimated that between four and six awards for a total of up to $1 million could be available for this area in FY 2001, contingent upon the availability of appropriated funds.

(2) *Bioinformatics.* It is estimated that by December 2000, completed genomic sequences of perhaps 50 archaea and bacteria will be publicly available, more than a third of them as a direct result of DOE Microbial Genome Program funding. In June 2000, a draft sequence for the entire human genome became available as well. For several microbes, complete sequences of close evolutionary relatives now or will soon exist. Computational comparative genomics can illuminate evolutionary pathways to complement traditional phenotype-based analyses, provide data for the prediction of gene function between organisms, and contribute to modeling pathways. The value of such comparative functional analysis is highlighted by the remarkable frequency of novel open reading frames in microbial genome sequences (up to half the genes in many cases) that currently lack any annotation. The evolutionary conservation of open reading frames and certain protein functions between microbes and more complex organisms (including human) emphasizes the value of microbial sequences for understanding the functions of uncharacterized microbial (and, potentially, human) genes. To this end, computational methods for interspecies genomic comparisons are an area of particular interest for this solicitation. Applications are requested that propose ways in which microbial sequence data from all sources can be analyzed, compared, annotated, and used to predict the function of homologous genes in both prokaryotic and eukaryotic organisms. Thus, this notice solicits applications for research into:

(a) Novel computational tools to increase the value of microbial genomic information, such as improved techniques for identifying distant sequence homologies, reconstructing phylogenetic trees, predicting gene function, or identifying and modeling gene expression networks, and

(b) Algorithms and tools to extract longer stretches, and make more accurate base calls from current sequencing procedures in order to assist the closure process for microbial genomes.

Of special interest will be methods that use unique DOE resources in massively parallel, high-capacity supercomputers (machines in the multi-teraflop range). It is expected that computational tools developed under these awards will be widely distributed to the scientific community (*e.g.* via a WWW site) and some level of user support will be available. It is anticipated that between three and six awards for a total of up to $2 million could be available for this area in FY 2001, contingent upon the availability of appropriated funds.

(3) *Characterization of Microbial Genomic Plasticity.* Completed sequences for several microbes (*e.g. Thermotoga maritima*, (Nelson, K. *et al.* (1999) Nature *399*: 323–329) and *Deinococcus radiodurans* (White, O., *et al.* Science (1999) *286*: 1571–1577) strongly suggest that entire blocks of genes have been laterally transferred during microbial evolution, even from sources in different biological kingdoms. How widespread this phenomenon may be, or any evolutionary constraints on it, is unknown. Applications are solicited that would assess lateral gene exchanges, in terms of its frequency in different environmental niches, the mechanisms involved, as well as the circumstances in which it is observed. It is anticipated that between two and four awards totaling up to $1 million could be available for this area in FY 2001, contingent upon the availability of appropriated funds.

(4) *Novel Approaches to Microbial Genomic Sequencing.* Many microorganisms that are closely related by means of phylogenetic measures (*e.g.*, 16S rRNA comparisons) display dramatic differences in phenotypic characteristics. Such differences can be chromosomal in origin, or they can be due to extrachromosomal genetic elements. The DOE MGP is interested in novel comparative sequencing approaches that exploit the completed sequence of one microorganism to efficiently determine the sequence of a related taxon or species.

This element of this solicitation could contribute to:

(a) New methods to accelerate genomic comparisons, without resequencing the entire genome of the related organism de novo (technologies up to the proof-of-principle stage are eligible for support). Technologies responsive to this element of this solicitation should be firmly grounded in already completed microbial sequencing projects; these may include subtractive hybridization approaches, or ''DNA chips'', among others, but it is not the aim of this solicitation to

support completely untested technologies;

(b) strategies to more efficiently identify specific sequence features associated with phenotypic differences; and

(c) techniques to characterize and quantify lateral gene transfer (especially any correlation with environmental selection).

A plan for making comparative sequence data publicly available by deposition into a community-accessible sequence database within three months of data acquisition must be included. A plan for efficient and timely annotation must be included in the Project Description. DOE expects that grantees will make all good faith efforts to publish in the open scientific literature the results of their funded work, including the genome sequences of microbes sequenced under this notice. (DOE data release requirements, a condition of any award, are available at: http://www.sc.doe.gov/production/ober/EPR/data.html). Applicants are encouraged to create process- and cost-effective partnerships that will maximize sequence data production and analysis, data dissemination, and progress towards understanding basic biological mechanisms that can further the development of biotechnology. It is anticipated that between two and four awards totaling up to $1 million could be available for this area in FY 2001, contingent upon the availability of appropriated funds.

(5) *Consortia and Hard-to-Culture Microbes.* Most of our current knowledge of microbiology is derived from individual species that either cause diseases or grow easily and readily as monocultures under laboratory conditions and are thus easy to study. The preponderance of species in the environment does neither and is thus largely unknown to science. Most are thought to grow as part of interdependent consortia in which one species supplies a nutrient necessary for the growth of another. Virtually nothing is known of the organization, membership, or functioning of these consortia, especially those involved in environmental processes in which DOE is interested. Technologies are sought that enable genomic analyses of microbial consortia as well as analyses of the genomic information content and diversity of those species that have proven refractory to laboratory culture but are plentiful in environments challenged with metal and radionuclide wastes, or involved in carbon sequestration. It is anticipated that between two and three awards totaling up to $1 million could be available for this area in FY 2001, contingent upon the availability of appropriated funds.

Preapplications

Potential applicants are strongly encouraged to submit a brief preapplication that consists of two to three pages of narrative describing the research objectives and technical approach(s). Preapplications will be reviewed relative to the scope and research needs of the OBER Microbial Genome Program, as outlined in the summary paragraph and in the **SUPPLEMENTARY INFORMATION**. The preapplication should identify, on the cover sheet, the title of the project, the institution, principal investigator name, telephone, fax, and e-mail address. A response to each preapplication discussing the potential programmatic relevance of a formal application will be communicated to the Principal Investigator within 14 to 21 days of receipt. Any renewal applications must include a list of publications resulting from previous DOE Microbial Genome Program funding.

Program Funding

It is anticipated that up to $6 million will be available for all MGP awards in Fiscal Year 2001 from twelve to as many as twenty five awards are anticipated, contingent on availability of appropriated funds in FY 2001 and the size of the awards. Multiple year funding is expected, also contingent on availability of funds and progress of the research. Awards are expected to range from $200,000 to $1 million per year, total costs, with terms of one to three years.

Merit Review

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria which are listed in descending order of importance codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project;

2. Appropriateness of the Proposed Method or Approach;

3. Competency of Applicant's Personnel and Adequacy of Proposed Resources;

4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and the agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers will often be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Submission Information

The Project Description must be 20 pages or less, exclusive of attachments. It must contain an abstract or project summary on a separate page with the name of the applicant, mailing address, phone FAX and E-mail listed. The application must include letters of intent from collaborators (briefly describing the intended contribution of each to the research), and short curriculum vitaes, consistent with NIH guidelines, for the applicant and any co-PIs.

To provide a consistent format for the submission, review and solicitation of grant applications submitted under this notice, the preparation and submission of grant applications must follow the guidelines given in the Application Guide for the Office of Science Financial Assistance Program, 10 CFR Part 605. Access to SC's Financial Assistance Application Guide is possible via the World Wide Web at: http://www.sc.doe.gov/production/grants/grants.html.

DOE policy requires that potential applicants adhere to 10 CFR Part 745 ''Protection of Human Subjects'', or such later revision of those guidelines as may be published in the **Federal Register**.

The Office of Science, as part of its grant regulations (10 CFR 605.11(b)) requires that a grantee funded by SC and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the NIH ''Guidelines for Research Involving Recombinant DNA Molecules,'' which is available via the World Wide Web at: http://www.niehs.nih.gov/odhsb/biosafe/nih/rdna-apr98.pdf, (59 FR 34496, July 5, 1994), or such later revision of those guidelines as may be published in the **Federal Register**.

Other Useful Web Sites Include

MGP Home Page—http://www.er.doe.gov/production/ober/microbial.html

DOE Joint Genome Institute Microbial Web Page—http://www.jgi.doe.gov/JGI__microbial/html/

GenBank Home Page—http://www.ncbi.nlm.nih.gov/

Human Genome Home Page—http://www.ornl.gov/hgmis

The Catalog of Federal Domestic Assistance Number for this program is

81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on July 9, 2000.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 00–21123 Filed 8–17–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–447–000]

Colorado Interstate Gas Company; Tariff Filing

August 14, 2000.

Take notice that on August 8, 2000, Colorado Interstate Gas Company (''CIG''), P.O. Box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, tariff sheets as listed in the attached Appendix A.

CIG states these tariff sheets reflect the changes to its tariff to comply with the requirements of Order Nos. 637, 637–A and 637–B (''Order''). Effective March 27, 2000, Order No. 637 removed the maximum rate ceiling applicable to capacity releases of less than one year. The rate ceiling will be reinstated at the start of the gas day on September 30, 2002, unless the Commission takes future action to extend the removal of the rate ceiling.

CIG further states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21026 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–446–000]

Columbia Gulf Transmission Company; Proposed Changes in FERC Gas Tariff

August 14, 2000.

Take notice that on August 9, 2000, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of September 8, 2000:

Fifth Revised Sheet No. 144

Columbia Gulf states that the purpose of this filing is to modify Section 4.1(c)(1) of the General Terms and Conditions (''GTC'') of its tariff to reflect a revision to the Commission's right-of-first-refusal (''ROFR'') policy set forth in Order No. 637–B, issued July 26, 2000, 92 FERC 61,062 (2000). In Order No. 637–B, the Commission clarified that long-term service agreements with negotiated rates entered into prior to the issuance of Order No. 637 are grandfathered and that the ROFR will apply at the expiration of such service agreements. Columbia Gulf has modified GTC Section 4.1(c)(1) to incorporate this clarification in its tariff.

Columbia Gulf states that copies of its filing are available for inspection at its offices at 2603 Augusta, Suite 125, Houston, Texas, 12801 Fair Lakes Parkway, Fairfax, Virginia, and 10 G Street, N.E., Suite 580, Washington, D.C., and have been mailed to all firm and interruptible customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21022 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–423–001]

Discovery Gas Transmission LLC; Notice of Compliance Filing

August 14, 2000.

Take notice that on August 8, 2000, Discovery Gas Transmission LLC (''Discovery'') filed tariff sheets to correct pagination and file formatting errors. Discovery requests that Second Revised Sheet No. 152 and Third Revised Sheets No. 154 be substituted for Third Revised Sheet No. 152 and Fourth Revised Sheet No. 154 submitted in Discovery's August 1, 2000, filing.

Applicants' designated contact person for this proceeding is Linda L. Geoghegan, 1111 Bagby Street, Houston, Texas 77002, 713–752–6067.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21021 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2529–000; ER00–2529–001]

Dow Pipeline Company; Notice of Issuance of Order

August 14, 2000.

Dow Pipeline Company (Dow) submitted for filing a rate schedule under which Dow will engage in wholesale electric power and energy transactions at market-based rates. Dow also requested waiver of various Commission regulations. In particular, Dow requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Dow.

On August 2, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Dow 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).

Absent a request for hearing within this period, Dow is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Dow's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 1, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order 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. 00–21030 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2738–000, ER00–2738–001, ER00–2740–000, and ER00–2740–001]

Entergy Nuclear Fitzpatrick, L.L.C. Entergy Nuclear Indian Point 3, L.L.C.; Notice of Issuance of Order

August 14, 2000.

Entergy Nuclear Fitzpatrick, L.L.C. and Entergy Nuclear Indian Point 3, L.L.C. (Entergy) submitted for filing a rate schedule under which Entergy will engage in wholesale electric power and energy transactions at market-based rates. Entergy also requested waiver of various Commission regulations. In particular, Entergy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability of Entergy.

On August 9, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Farms and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Entergy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Entergy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person, provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Entergy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 8, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order 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. 00–21029 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–288–002]

Kern River Gas Transmission Company; Correction to FERC Gas Tariff

August 14, 2000.

Take notice that on August 8, 2000, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective July 1, 2000.

Substitute Original Sheet No. 5
Substitute Original Sheet No. 6

Kern River states that the purpose of this filing is to revise the tariff sheets to reflect the correct GRI surcharges for 2000.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the

web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21024 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–450–000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

August 14, 2000.

Take notice that on August 9, 2000, Natural Gas Pipeline Company of America (Natural) tendered for filing certain tariff sheets to be part of its FERC Gas Tariff, Sixth Revised Volume No. 1 (Tariff), to be effective September 11, 2000.

Natural states that these sheets were filed to make a number of minor ''clean-up'' type changes in its Tariff including changes in the General Terms and Conditions, Rate Schedules DSS, FRSS, IBS and FTS and in the pro forma service agreements.

Natural requests waiver of the Federal Energy Regulatory Commission's Regulations to the extent necessary to permit the tariff sheets submitted to become effective September 11, 2000.

Natural states that copies of the filing have been mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21023 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3160–000]

NRG Energy Center Dover LLC, et al.; Notice of Issuance of Order

August 14, 2000.

NRG Energy Center Dover LLC, *et al.* (NRG) submitted for filing a rate schedule under which NRG will engage in wholesale electric power and energy transactions at market-based rates. NRG also requested waiver of various Commission regulations. In particular, NRG requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by NRG.

On August 9, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by NRG 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).

Absent a request for hearing within this period, NRG is authorized to issue securities and assume obligations of liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of NRG's issuance of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 8, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Davis P. Boergers,

Secretary.

[FR Doc. 00–21031 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2080–000]

Rumford Power Associates Limited Partnership; Notice of Issuance of Order

August 14, 2000.

Rumford Power Associates Limited Partnership (Rumford) submitted for filing a rate schedule under which Rumford will engage in wholesale electric power and energy transactions at market-based rates. Rumford also requested waiver of various Commission regulations. In particular, Rumford requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Rumford.

On May 17, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Rumford should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Rumford is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Rumford's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 30, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order 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. 00–21028 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–442–000]

U–T Offshore System, L.L.C.; Notice of Filing

August 11, 2000.

Take notice that on August 7, 2000, U–T Offshore Company, L.L.C. (UTOS), P.O. Box 2511, Houston, Texas 77252, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume 1, the revised tariff sheets listed in Appendix A. UTOS proposes that the foregoing tariff sheets be made effective September 1, 2000.

UTOS states this filing is made to reflect changes relating to the implementation of a new Interactive Internet Website.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21020 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–448–000]

Wyoming Interstate Company, Ltd.; Tariff Filing

DATE: August 14, 2000.

Take notice that on August 8, 2000, Wyoming Interstate Company, Ltd. (''WIC''), P.O. Box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC Gas Tariff, Second Volume No. 2, tariff sheets as listed in the attached Appendix A.

WIC states these tariff sheets reflect the changes to its tariff to comply with the requirements of Order Nos. 637, 637–A, and 637–B (''Order''). Effective March 27, 2000, Order No. 637 removed the maximum rate ceiling applicable to capacity releases of less than one year. The rate ceiling will be reinstated at the start of the gas day on September 30, 2002, unless the Commission takes future action to extend the removal of the rate ceiling.

WIC further states that copies of this filing have been served on WIC's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21025 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–449–000]

Young Gas Storage Company, Ltd.; Notice of Tariff Filing

August 14, 2000.

Take notice that on August 8, 2000, Young Gas Storage Company, Ltd. (Young), P.O. Box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, tariff sheets as listed in Appendix A of filing.

Young states these tariff sheets reflect the changes to its tariff to comply with the requirements of Order Nos. 637, 637–A and 637–B (''Order''). Effective March 27, 2000, Order No. 637 removed the maximum rate ceiling applicable to capacity releases of less than one year. The rate ceiling will be reinstated at the start of the gas day on September 30, 2002, unless the Commission takes future action to extend the removal of the rate ceiling.

Young further states that copies of this filing have been served on Young's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://

www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21027 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–121–000, et al.]

The Southern Company and Southern Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 9, 2000.

Take notice that the following filings have been made with the Commission:

1. The Southern Company and Southern Energy, Inc.

[Docket No. EC00–121–000]

Take notice that on August 4, 2000, The Southern Company and Southern Energy, Inc. (Applicants) filed a joint application pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824b (1994), for authorization to accomplish the disposition of jurisdictional assets through divestiture and a request for expedited approval in the above-referenced docket.

Comment date: September 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Services, Inc.

[Docket No. ER00–2816–001]

Take notice that on August 7, 2000, Entergy Services, Inc. (Entergy), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing in the above docket an amended Long-Term Firm Point-to-Point Transmission Service Agreement (the Agreement) between Entergy and Entergy Services, Inc. (EMO).

Entergy submitted the amended Agreement in response to the Commission's letter of July 6, 2000 issued in the above docket, directing Entergy to revise the Agreement in various respects.

Comment date: August 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. New York Independent System Operator, Inc., New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.

[Docket Nos. ER00–3038–002 and EL00–70–003]

Take notice that on August 4, 2000, the New York Independent System Operator, Inc. (NYISO), filed its preliminary compliance report concerning pro rata curtailment procedures and fixed block generation pricing rules in the above-captioned proceeding. A copy of this filing was served upon all persons on the Commission's official service list.

Comment date: September 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. The Montana Power Trading and Marketing Company

[Docket No. ER00–3367–000]

Take notice that on August 4, 2000, The Montana Power Trading and Marketing Company (MPT&M), tendered for filing a Notice of Cancellation of its Market Based Rate Tariff. MPT&M also submitted Notices of Cancellation for Rate Schedule FERC Nos. 1, 3 and 4, and Supplement No. 4 to Rate Schedule FERC No. 1.

MPT&M respectfully requests waiver of the 60-day notice requirement for good cause shown. MPT&M has served each affected party with the relevant Notice of Cancellation.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. The Montana Power Trading and Marketing Company

[Docket No. ER00–3368–000]

Take notice that on August 4, 2000, The Montana Power Trading and Marketing Company (MPT&M), tendered for filing a letter requesting Commission approval of MPT&M's assignment of its membership in the Western Systems Power Pool (WSPP) to The Montana Power Company with an effective date of August 30, 2000. Such assignment is allowed under Section 14 of the WSPP Agreement.

A copy of the filing was served upon the General Counsel to the WSPP.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Mid-Continent Area Power Pool

[Docket No. ER00–3369–000]

Take notice that on August 7, 2000, the Mid-Continent Area Power Pool (MAPP), on behalf of its members that are subject to Commission jurisdiction as public utilities under Section 201(e) of the Federal Power Act, tendered for filing amendments to the Restated Agreement and Schedule F so as to allow MAPP members to participate in certain MAPP committees without becoming members of other committees.

Comment date: August 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. New Century Services, Inc.

[Docket No. ER00–3370–000]

Take notice that on August 7, 2000, New Century Services, Inc. on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (the Companies), tendered for filing a service agreement under their Joint Open Access Transmission Service Tariff for Firm Point-to-Point Transmission Service between the Companies and Constellation Power Source, Inc.

Comment date: August 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. New Century Services, Inc.

[Docket No. ER00–3371–000]

Take notice that on August 7, 2000, New Century Services, Inc. on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (the Companies), tendered for filing a service agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and Constellation Power Source, Inc.

Comment date: August 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. The Montana Power Company

[Docket No. ER00–3372–000]

Take notice that on August 7, 2000, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an executed Network Integration Transmission Service Agreement with Stimson Lumber Company Open Access Transmission Tariff).

A copy of the filing was served upon Stimson Lumber Company.

Comment date: August 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Northeast Utilities Service Company

[Docket No. ER00–3374–000]

Take notice that on August 7, 2000, Northeast Utilities Service Company (NUSCO), on behalf of its affiliates, The

Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire, submitted pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, an agreement that amend a rate schedule to an Amended and Restated Power Sales Agreement between NUSCO and Citizens Power Sales LLC (formerly Citizens Lehman Power Sales), under the NU System Companies' Sale for Resale Tariff No. 6.

NUSCO requests an effective date of August 8, 2000, or at the earliest possible date thereafter.

NUSCO states that a copy of this filing has been mailed to Citizens Power Sales LLC and the Connecticut Department of Public Utility Control.

Comment date: August 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Metropolitan Edison Company

[Docket No. ER00–3375–000]

Take notice that on August 7, 2000, Metropolitan Edison Company (doing business and hereinafter referred to as GPU Energy), tendered for filing two letter agreements between GPU Energy and PPL Electric Utilities Corporation (PPL). Under the agreements, PPL has accepted certain operational and financial responsibilities, including those set forth in the GPU Energy's procedure manuals for the determination of PPL's peak load share and total hourly energy obligation in connection with PPL becoming a Load Serving Entity for the Pennsylvania Boroughs of Lewisberry and Goldsboro.

Copies of the filing were served upon PPL and regulators in the Commonwealth of Pennsylvania.

Comment date: August 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. The Potomac Edison Company, PE Transferring Agent, L.L.C., PE Generating Company, L.L.C., Allegheny Energy Supply Company, L.L.C.

[Docket No. ER00–3373–000]

Take notice that on August 7, 2000, The Potomac Edison Company, PE Transferring Agent, L.L.C., PE Generating Company, L.L.C., and Allegheny Energy Supply Company, L.L.C., tendered for filing agreements assigning Potomac's right, title and interest in an Inter-Company Power Agreement among Ohio Valley Electric Corporation, Appalachian Power Company, The Cincinnati Gas & Electric Company, Columbus Southern Power Company, The Dayton Power and Light Company, Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Edison Company, Pennsylvania Power Company, The Potomac Edison Company, Southern Indiana Gas and Electric Company, The Toledo Edison Company, and West Penn, dated July 10, 1953, as amended from time to time. The Applicants state the Commission previously authorized this assignment in an order dated June 30, 2000. The Potomac Edison Company, 91 FERC ¶62,245 (2000). The Applicants request that the Commission accept the proposed assignment effective on August 2, 2000, the date the assignments occurred as previously authorized by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 28, 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, N.E., Washington, D.C. 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).

Dated:

David P. Boergers,

Secretary.

[FR Doc. 00–21018 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–121–000, et al.]

The southern Company and Southern Energy, Inc., et al; Electric Rate and Corporate Regulation Filings

August 11, 2000.

Take notice that the following filings have been made with the Commission:

1. The Southern Company and Southern Energy, Inc.

[Docket No. EC00–121–000]

Take notice that on August 9, 2000, The Southern Company and Southern Energy, Inc. (collectively Applicants) filed corrections to the ''Joint Application of The Southern Company and Southern Energy, Inc. Pursuant to Section 203 of the Federal Power Act for Authorization to Accomplish the Disposition of Jurisdictional Assets Through Divestiture and Request for Expedited Approval'' filed with the Federal Energy Regulatory Commission on August 4, 2000, in the above-referenced docket, as well as redlined pages showing the changes made (August 4th Filing). In addition, the Applicants tendered a supplement to Exhibit H of the August 4th Filing.

Comment date: September 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. National Grid USA, TransCanada OSP Holdings Ltd.

[Docket No. EC00–122–000]

Take notice that on August 8, 2000, National Grid USA (National Grid USA) and TransCanada OSP Holdings Ltd. (TCOSP) tendered for filing an Application requesting Commission approval under Section 203 of the Federal Power Act (FPA) in connection with the sale of certain upstream ownership interests in Ocean State Power and Ocean State Power II, which are ''public utilities'' under Section 201 of the FPA.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Wise County Power Company, LLC

[Docket No. EG00–240–000]

Take notice that on August 9, 2000, Wise County Power Company, LLC (Applicant), with its principal office at 1177 West Loop South, Suite 900, Houston, Texas 77027, 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 will be engaged in owning and operating an electric generating facility with a capacity which consists of approximately 800 MW located near Bridgeport, in Wise County, Texas. The Applicant will sell electric energy exclusively at wholesale.

Comment date: September 1, 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. JPower, Inc.

[Docket No. ER00–2921–000]

Take notice that on August 2, 2000, JPower, Inc. filed a letter requesting an official withdrawal of their July 13, 2000 filing of a notice to change the status of Jpower.

Comment date: August 21, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Corpus Christi Cogeneration LP

[Docket No. QF98–39–001]

Take notice that on June 26, 2000, as supplemented on July 25, 2000, Corpus Christi Cogeneration LP located at Edens Corporate Center, 650 Dundee Road, Suite 350, Northbrook, IL 60062, filed with the Federal Energy Regulatory Commission, an application for certification of the Corpus Christi Energy Center as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's regulations, 18 CFR 292.207(b). No determination has been made that the submittal constitutes a complete filing.

The facility located at the Corpus Christi Energy Center is a gas turbine combined cycle cogeneration facility that uses natural gas as its fuel source. The facility includes two combustion turbine generators, with a rated capacity of approximately 166,250 kW at 72 °F, a heat recovery steam turbine generator rated approximately 180,000 kW. The facility will be located in Corpus Christi, TX, in the county of Nueces.

The facility will interconnect directly and with the transmission system of Central Power and Light Company, and will sell its electric power output at wholesale to Central Power and Light Company as well as other various qualified buyers. Central Power and Light Company or other qualified suppliers will provide supplementary, standby, back-up and maintenance power to the Corpus Christi Energy Center.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket No. ER00–3376–000]

Take notice that on August 8, 2000, the California Independent System Operator Corporation (ISO), tendered for filing a Notice of Termination for its Meter Service Agreement for Scheduling Coordinators with Edison Source.

The ISO requests that the Termination be made effective as of August 8, 2000.

The ISO states that this filing has been served on all parties on the official service list maintained by the Secretary for the above-referenced docket.

Comment date: August 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER00–3377–000]

Take notice that on August 8, 2000, the California Independent System Operator Corporation (ISO), tendered for filing a Notice of Termination for its Scheduling Coordinator Agreement with Edison Source.

The ISO requests that the Termination be made effective as of August 8, 2000.

The ISO states that this filing has been served on all parties on the official service list maintained by the Secretary for the above-referenced docket.

Comment date: August 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–3378–000]

Take notice that on August 8, 2000, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Service Agreement No. 319 to add DTE Energy Marketing, Inc., to Allegheny Power's Open Access Transmission Service Tariff.

The proposed effective date under the agreement is August 7, 2000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: August 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Indiana Gas and Electric Company

[Docket No. ER00–3379–000]

Take notice that on August 8, 2000, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing the following agreements concerning the provision of electric service as umbrella service agreements under its market-based Wholesale Power Sales Tariff:

1. Wholesale Energy Service Agreement dated June 30, 2000, by and between Southern Indiana Gas and Electric Company and New Energy, Inc.

2. Wholesale Energy Service Agreement dated July 7, 2000, by and between Southern Indiana Gas and Electric Company and PG&E Energy Trading—Power, L.P.

Comment date: August 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. MidAmerican Energy Company

[Docket No. ER00–3380–000]

Take notice that on August 8, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing with the Commission a Firm Transmission Service Agreement with Ames Municipal Electric System (Ames Municipal), dated July 10, 2000, and a Non-Firm Transmission Service Agreement with Ames Municipal, dated July 10, 2000, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of July 10, 2000 for the Agreements with Ames Municipal, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Ames Municipal Electric System, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: August 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. MidAmerican Energy Company

[Docket No. ER00–3381–000]

Take notice that on August 8, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing with the Commission a Firm Transmission Service Agreement and a Non-Firm Transmission Service Agreement entered into by MidAmerican, as a transmission provider, with MidAmerican, as a wholesale merchant. Both Agreements, which are dated July 12, 2000 and entered into pursuant to MidAmerican's

Open Access Transmission Tariff, provide for Direct Assignment Facility Charges.

MidAmerican requests an effective date of July 12, 2000 for the Agreements and seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: August 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. PJM Interconnection, L.L.C.

[Docket No. ER00–3385–000]

Take notice that on August 9, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing the following revised sheets to the Appendix to Attachment K of PJM's Open Access Transmission Tariff (Tariff) on file with the Commission:

Fifth Revised Sheet No. 172
Fourth Revised Sheet No. 173
Third Revised Sheet No. 174
First Revised Sheet No. 174A
Original Sheet No. 174B

and identical changes to the following pages of Schedule 1 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (OA):

Original Sheet No. 97
Original Sheet No. 98
Second Revised Sheet No. 99
Second Revised Sheet No. 99A
Original Sheet No. 99B

PJM states that the revised sheets contain revisions to the rules governing energy offers that include minimum run times during a Maximum Generation Emergency. PJM states that these revisions result from the PJM stakeholders' ongoing collaborative process and have been unanimously approved by the PJM Members Committee.

PJM requests an effective date of August 10, 2000 for these revised Tariff and OA sheets. PJM states that the requested effective date will allow the stakeholder-approved revisions to take effect for the remainder of the summer season, which is the period when Maximum Generation Emergencies are most likely to occur.

Comment date: August 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Northern Maine Independent System Administrator, Inc.

[Docket No. ER00–2791–001]

Take notice that on August 9, 2000, Northern Maine Independent System Administrator, Inc. (NMISA), tendered for filing an amendment to its June 12, 2000 filing in this proceeding. The Amendment includes (i) an Order No. 614-compliant version of the NMISA Tariff; (ii) Service Agreement Nos. 1–7 to the NMISA Tariff; and (iii) notices of cancellation for NMISA Rate Schedule No. 1 and Nos. 3 through 9.

Comment date: August 30, 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, N.E., Washington, D.C. 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. 00–21019 Filed 8–17–00; 8:45 am]

BILLING CODE 6717–01–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6853–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Invitation for Bids and Request for Proposals (IFBs and RFPs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Invitation for Bids and Request for Proposals. OMB Control Number 2030–0006, expiration date 9/30/2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 18, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1038.10. For technical questions about the ICR contact Leigh Pomponio at EPA by phone at (202) 564–4364 or by email at pomponio.leigh@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Invitation for Bids and Requests for Proposals (IFPs and RFPs). OMB Control No. 2030–0006. EPA ICR No. 1038.10. This is a request for extension of a currently approved collection.

Abstract: EPA requires contractors to submit information in order to be considered for the award of a contract. Information requested includes: prices for the supplies/services requested, information on past performance, technical and cost information, and general financial and organizational information. Information provided by vendors in response to an IFB/RFP is used to evaluate which vendor will provide the best product in terms of quality, timeliness, and price. Responses to IFBs/RFPs are required for a company to be considered for contract award. Contractor confidential business information submitted in connection with an IFB/RFP is protected from public release in accordance with 40 CFR 2.201 *et seq.*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 04/20/00 (65 FR 21177). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 8 hours per response for IFBs and 251 hours per response for RFPs. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for

the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Large and small businesses which want to supply EPA with supplies and services.

Estimated Number of Respondents: 288 for IFBs and 973 for RFPs.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 246,527 hours.

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1038.10 and OMB Control No. 2030–0006 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave, NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: August 10, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–21074 Filed 8–17–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6853–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Conflict of Interest

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Conflict of Interest, Rule #1, OMB Control Number 2030–0023, expiration date 11/30/2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 18, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1550.05. For technical questions about the ICR contact Leigh Pomponio at EPA by phone at (202) 564–4364 or by email at pomponio.leigh@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Conflict of Interest, OMB Control No. 2030–0023. EPA ICR No.1550.05. This is a renewal of an existing collection.

Abstract: Contractors performing Superfund contracts will be required to disclose business relationships and corporate affiliations to determine whether EPA's interests are jeopardized by such relationships. Because EPA has the dual responsibility of cleanup and enforcement and because its contractors are often involved in both activities, it is imperative that contractors are free from conflicts of interest so as not to prejudice response and enforcement actions. Contractors will be required to maintain a database of business relationships and report information to EPA on either an annual basis or when each work assignment is issued. Responses to the collection are required prior to award of a contract. Submissions will be protected from public release as Confidential Business Information in accordance with 40 CFR 2.201.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 05/01/00 (65 FR 25323). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1969 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Large and small business performing Superfund contracts for the Agency.

Estimated Number of Respondents: 165.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 324,885 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to OMB Control No. 2030–0023, and EPA ICR No. 1550.05 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave, NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: August 10, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–21075 Filed 8–17–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6853–9]

Agency Information Collection Activities; Submission of EPA ICR #1198.06 to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) entitled: Chemical-Specific Rules, TSCA Sec. 8(a) (EPA ICR #1198.06; OMB #2070–0067) has been forwarded to the Office of Management and Budget (OMB) for review and approval pursuant to 5 CFR 1320.12. The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden. A **Federal Register** notice announcing the Agency intent to seek OMB approval for this ICR and a 60-day public comment opportunity, requesting comments on the request and the contents of the ICR, was issued on May 19, 2000 (65 FR 31896). No comments were received on this ICR during the comment period.

DATES: Additional comments may be submitted on or before September 18, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 1198.06 and OMB Control No. 2070–0067, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code: 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; and to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer by phone at (202) 260–2740, or via e-mail at ''farmer.sandy@epa.gov,'' or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1198.06.

SUPPLEMENTARY INFORMATION:

Title: Chemical-Specific Rules, TSCA Sec. 8(a); OMB Control No. 2070–0067; EPA ICR No. 1198.06. This is a request for extension of an approved collection, currently expiring on August 31, 2000.

Abstract: Section 8(a) of the Toxic Substance Control Act (TSCA) authorizes the Administrator of EPA to promulgate rules that require persons who manufacture, import or process chemical substances and mixtures, or who propose to manufacture, import or process chemical substances and mixtures, to maintain such records and submit such reports to EPA as may be reasonably required. Any chemical covered by TSCA for which EPA or another Federal agency has a reasonable need for information and which cannot be satisfied via other sources is a proper potential subject for a chemical-specific TSCA section 8(a) rulemaking. Information that may be collected under TSCA section 8(a) includes, but is not limited to, chemical names, categories of use, production volume, byproducts of chemical production, existing data on deaths and environmental effects, exposure data and disposal information. Generally, EPA uses chemical-specific information under TSCA section 8(a) to evaluate the potential for adverse human health and environmental effects caused by the manufacture, importation, processing, use or disposal of identified chemical substances and mixtures. Additionally, EPA may use TSCA section 8(a) information to assess the need or set priorities for testing and/or further regulatory action. To the extent that reported information is not considered confidential, environmental groups, environmental justice advocates, state and local government entities and other members of the public will also have access to this information for their own use.

Responses to the collection of information are mandatory (see 40 CFR part 704). Respondents may claim all or part of a document confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on May 19, 2000 (65 FR 31896). EPA received no comments on this ICR during the comment period.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 69 hours per response. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Persons who manufacture, process or import, or propose to manufacture, process or import, chemical substances and mixtures.

Frequency of Collection: On occasion.

Estimated No. of Respondents: 4.

Estimated Total Annual Burden on Respondents: 275 hours.

Estimated Total Annual Non-labor Costs: $0.

Changes in Burden Estimates: There are no changes in the burden associated with this ICR since its last approval by OMB.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: August 14, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–21076 Filed 8–17–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

(ER-FRL–6610–3)

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 260–5073 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements

Filed August 07, 2000 Through August 11, 2000

Pursuant to 40 CFR 1506.9.

EIS No. 000278, Draft Supplement, AFS, NM, Agua/Caballos Timber Sale, Harvesting Timber and Managing Existing Vegetation, New Information and a New Preferred Alternative, Carson National Forest, EL Rito Ranger District, Arriba County, NM, Due: October 02, 2000, Contact: Kurt Winchester, (505) 581–4554.

EIS No. 000279, Draft EIS, AFS, ID, Swan Flat Timber Sale, Proposal to Cut and Haul Sawtimber, Caribou National Forest, Land Resource Management Plan (LRMP), Montpelier Ranger District, Bear Lake County, ID, Due: October 02, 2000, Contact: Eric Mattson, (208) 847–0375.

EIS No. 000280, Draft EIS, FHW, MO, U.S. Route 50 East-Central Corridor Study, Highway Improvements from Route 50 to Route 63 east of Jefferson City, Major Transportation Investment Analysis, Osage, Gasconade, and Franklin Counties, MO, Due: October 16, 2000, Contact: Don Neumann, (573) 636–7104.

EIS No. 000281, Draft EIS, AFS, AK, Woodpecker Project Area, Timber Harvesting, Dispersed Recreation Opportunities and Watershed Improvements, Implementation, Tongass National Forest, Petersburg Ranger District, Mitkof Island, Petersburg, AK, Due: October 15, 2000, Contact: Cynthia Sever, (907) 772–3871.

EIS No. 000282, Draft EIS, MMS, TX, MS, FL, LA, AL, Programmatic EIS—Proposed Use of Floating Production, Storage and Offloading Systems on the Gulf of Mexico, Outer Continental Shelf, Western and Central Planning Areas, TX, LA, MS, AL and FL, Due: October 20, 2000, Contact: Archie Melancon, (703) 787–1547.

EIS No. 000283, Final EIS, NPS, Shenandoah Valley Battlefields National Historic District Management Plan, Implementation, Augusta, Clarks, Frederick, Highland, Page, Rockingham, Shenandoah and Warren Counties, VA , Due: September 18, 2000, Contact: Jeffrey P. Reinbold, (540) 740–4549.

EIS No. 000284, Draft EIS, GSA, MD, Glen Echo Park Management Plan, Implementation, Town of Glen Echo, Potomac River Valley, part of the George Washington Memorial Parkway, Montgomery County, MD, Due: October 17, 2000, Contact: Audrey Calhoun, (703) 289–2500.

Amended Notices

EIS No. 000217, Draft EIS, FHW, NE, Antelope Valley Study, Implementation of Stormwater Management, Transportation Improvements and Community Revitalization, Major Investment Study, City of Lincoln, Lancaster County, NE, Due: August 29, 2000, Contact: Edward Kosola, (402) 437–5973.

Revision of FR notice published on 06/30/2000: CEQ Comment Date has been Extended from 08/15/2000 to 08/29/2000.

Dated: August 15, 2000.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–21113 Filed 8–17–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34235; FRL–6740–5]

Pesticides; Availability of Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of risk assessments that were developed as part of the EPA's process for making Reregistration Eligibility Decisions (REDs) for pesticides and for tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These risk assessments are the human health and ecological risk assessments and related documents for vinclozolin. These risk assessments are being released to the public as part of the joint initiative between EPA and the Department of Agriculture (USDA) to strengthen stakeholder involvement and help ensure decisions made under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply.

DATES: The risk assessments and related documents are available in the OPP Docket. While there is no formal public comment period, the Agency will accept comments on the risk assessment documents. Comments submitted within the first 30 days are most likely to be considered.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number of the chemical of specific interest in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Deanna Scher, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–7043; e-mail address: scher.deanna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk assessments for vinclozolin, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'','' Regulations and Proposed Rules,'' and then look up the entry for this document under the **Federal Register**—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the pesticide risk assessments released to the public may also be accessed at http: www.epa.gov/pesticides.

2. *In person*. The Agency has established an official record for this action under docket control numbers OPP–34235. 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. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number for the specific chemical of interest in the subject line on the first page of your response.

1. *By mail.* Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* Submit electronic comments by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. 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 standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number of the chemical of specific interest. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

III. What Action is the Agency Taking?

EPA is making available to the public the risk assessments that have been developed as part of EPA's process for tolerance reassessment and reregistration. While there is no formal public comment period, the Agency will accept comments on the risk assessment documents. Comments submitted within the first 30 days are most likely to be considered. REDs for pesticides developed under the interim process will be made available for public comment.

EPA and USDA have been using a pilot public participation process for the assessment of organophosphate pesticides since August 1998. In considering how to accomplish the movement from the current pilot being used for the organophosphate pesticides to the public participation process that will be used in the future for non-organophosphates, such as vinclozolin, EPA and USDA have adopted an interim public participation process for the non-organophosphate pesticides scheduled for tolerance reassessment and reregistration in 2000. The interim public participation process ensures public access to the Agency's risk assessments while also allowing EPA to meet its reregistration commitments. The interim public participation process for the non-organophosphate pesticides scheduled for tolerance reassessment and reregistration in 2000 and 2001 takes into account that the risk assessment development work on these pesticides is substantially complete. The interim public participation process involves: A registrant error correction period; a period for the Agency to respond to the registrant's error comments; the release of the refined risk assessments and risk characterizations to the public via the docket and EPA's internet website; a significant effort on stakeholder consultations, such as meetings and conference calls; and the issuance of the risk management document (i.e., RED) after the consideration of issues and discussions with stakeholders. USDA plans to hold meetings and conference calls with the public (i.e., interested stakeholders such as growers, USDA Cooperative Extension Offices, commodity groups, and other Federal government agencies) to discuss any identified risks and solicit input on risk management strategies. EPA will participate in USDA's meetings and conference calls with the public. This feedback will be used to complete the risk management decisions and the RED. EPA plans to conduct a close-out conference call with interested stakeholders to describe the regulatory decisions presented in the RED. REDs for pesticides developed under the interim process will be made available for public comment.

Included in the public version of the official record is the Agency's risk assessments and related documents for vinclozolin. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for the pesticides listed in this notice. These risk assessments reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 11, 2000.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–21082 Filed 8–17–00; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64050; FRL–6738–5]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become

effective on February 14, 2001, unless indicated otherwise.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 266A, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, 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 information in this notice, consult the person under **FOR FURTHER INFORMATION CONTACT.**

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

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

2. *In person.* Contact James A. Hollins at 1921 Jefferson Davis Highway, Crystal Mall 2, Rm. 224, Arlington, VA, telephone number (703) 305–5761. Available from 7:30 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in 10 pesticide registrations. These registrations are listed in the following Table 1 by registration number, product name, active ingredient, and specific uses deleted:

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
000241–00212*	THIMET MC–85 Insecticide For Manufacturing Purposes Only	Phorate	Use on wheat
000241–00213*	THIMET Technical Insecticide For Manufacturing Purposes Only	Phorate	Use on wheat
000241–00257*	THIMET 20G Soil and System Insecticide	Phorate	Use on wheat
000432–00595	SBP–1382 Insecticide Concentrate 40% Formula I	Resmethrin	Mosquito control use
000524–00307	Triallate Technical	Triallate	Use on canary grass
034704–00005	Clean Crop Amine 4 CA	Dimethylamine 2,4-dichlorophenoxy-acetate	Use in grape vineyards
034704–00120	Clean Crop Amine 4 2, 4-D Weed Killer	Dimethylamine 2,4-dichlorophenoxy-acetate	Use in grape vineyards
034704–00606	Savage	Dimethylamine 2,4-dichlorophenoxy-acetate	Use in grape vineyards
040083–00001*	Lindane Technical	Lindane	Use on celery, collards, kale, kohlrabi, mustard greens, swiss chard
CA–830012 (Co. #59623)	Malathion ULV Concentrate Insecticide	Malathion	Use on filberts, plums, prunes

* = 30–day comment period

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before February 14, 2001, unless indicated otherwise, to discuss withdrawal of the application for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company Number	Company Name and Address
000241	American Cyanamid Company, Agricultural Products Research Division, P.O. Box 400, Princeton, NJ 08543.
000432	Aventis Environmental Science, 95 Chestnut Ridge Road, Montvale, NJ 07645.
000524	Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167.
034704	Platte Chemical Co., 419 18th Street, P.O. Box 667, Greeley, CO 80632.
040083	Inquinosa Internacional, S.A, c/o Technology Serivces Group Inc., 1101 17th Street, N.W., Washington, DC 20036.
059623	California Dept. Of Food and Agriculture, 1200 N Street, Sacramento, CA 95814.

III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. How and to Whom Do I Submit Withdrawal Requests?

1. *By mail:* Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked February 14, 2001.

2. *In Person or by courier:* Deliver your withdrawal request to: Document Processing Desk (DPD), Information Services Branch, Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 266A, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA. The DPD is open from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The DPD telephone number is (703) 305–5263.

3. *Electronically.* You may submit your withdrawal request electronically by e-mail to: hollins.james@epa.gov. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: August 8, 2000.

Richard R. Schmitt,

Associate Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 00–21083 Filed 8–17–00; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00658A; FRL–6739–3]

Pesticides; Proposed Guidance on Cumulative Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: In the **Federal Register** of June 30, 2000, EPA announced and requested comment on a pesticide draft science policy document entitled ''Proposed Guidance on Cumulative Risk Assessment of Pesticide Chemicals that Have a Common Mechanism of Toxicity.'' EPA is extending the comment period to September 15, 2000, in response to requests from the public.

DATES: Comments, identified by docket control number OPP–00658A, must be received on or before September 15, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00658A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania, Ave., NW., Washington, DC 20460; telephone number: (703)–305–5944; e-mail address: frane.jean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you manufacture, formulate, or are required to register pesticide products (NAICS Code 32532). Other types of entities not listed could also be affected. The North American Industrial Classification System (NAICS) code has been provided to assist you and others in determining whether or not this notice affects certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Electronically.* You may obtain electronic copies of this document, the draft science policy document, and certain other related documents that might be available from the Office of Pesticide Programs' Home Page at http://www.epa.gov/pesticides. On the Office of Pesticide Programs' Home Page select ''FQPA'' and then look up the entry for this document under ''Science Policies.'' You can also go directly to the listings at the EPA Home Page at http://www.epa.gov. On the Home Page select ''Laws and Regulations,'' Regulations and Proposed Rules,'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can go directly to the **Federal Register** listings http://www.epa.gov/fedrgstr.

2. *Fax on demand.* You may request a faxed copy of the draft science policy document, as well as supporting information, by using a faxphone to call (202) 401–0527. Select item 6049 for the paper entitled ''Proposed Guidance on Cumulative Risk Assessment of Pesticide Chemicals That Have a Common Mechanism of Toxicity.'' You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP–00658A. In addition, the documents referenced in the framework notice, which published in the **Federal Register** on October 29, 1998 (63 FR 58038) (FRL–6041–5) have also been inserted in the docket under docket control number OPP–00557. 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket

control number OPP–00658A in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania, Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00658A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider As I Prepare My Comments for EPA?

EPA invites you to provide your views on the various draft science policy documents, new approaches we have not considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies if any technical information and/or data to support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00658A in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

EPA is extending until September 15, 2000 the comment period for its draft science policy document entitled, ''Proposed Guidance on Cumulative Risk Assessment of Pesticide Chemicals that Have a Common Mechanism of Toxicity.'' The original comment period would have closed on August 28, 2000. EPA has received requests from a group of stakeholders, who wish to comment on the draft document, asking EPA to extend the comment period. The group requested an additional 30 days for comment, citing the length and complexity of the proposal, as well as the difficulty of preparing comment during the summer vacation period.

III. Do Any Regulatory Assessment Requirements Apply to this Action?

No. This action is not a rulemaking, it merely extends the date by which public comments must be submitted to EPA on a pesticide draft science policy document that previously published in the **Federal Register** of June 30, 2000 (65 FR 40644) (FRL–6556–4). For information about the applicability of the regulatory assessment requirements to that document, please refer to the discussion in Unit I. of the June 30, 2000, document.

List of Subjects

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

Dated: August 8, 2000.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 00–20998 Filed 8–17–00]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[AZ023–CORR; FRL–6853–2]

Adequacy Status of the Maricopa County, Arizona Submitted PM–10 Attainment Plan for Transportation Conformity Purposes, Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of correction.

SUMMARY: This action corrects language in a public notice that was published in the **Federal Register** on April 6, 2000, that stated that the submitted Maricopa County (Phoenix, Arizona) serious area particulate matter (PM–10) attainment plan is adequate for transportation conformity purposes. This notice does not change the adequacy status of the plan, just clarifies language in the April 6 notice.

DATES: This notice is effective August 18, 2000.

FOR FURTHER INFORMATION CONTACT: The finding is available at EPA's conformity website: http://www.epa.gov/oms/traq, (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity''). You may also contact Karina O'Connor, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1247 or oconnor.karina@epa.gov.

SUPPLEMENTARY INFORMATION:

The April 6, 2000 notice announced our finding that the *Revised MAG 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County Nonattainment Area* (February 2000), submitted by the Arizona on February 16, 2000, contains

adequate emissions budgets [1] for transportation conformity purposes. The last sentence of the notice, which refers to how the adequacy decision was made, incorrectly stated ''We followed this guidance in making our inadequacy determination on the Maricopa County PM–10 plan.'' This sentence should have stated, ''We followed this guidance in making our adequacy determination on the Maricopa County PM–10 plan.''

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

Dated: August 10, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–21077 Filed 8–17–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6854–3]

Water Pollution Control; Approval of Modification to Wisconsin's Approved National Pollutant Discharge Elimination System Permitting Program To Administer a State Sewage Sludge Management (Biosolids) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; approval of application.

SUMMARY: On July 28, 2000, pursuant to section 402(b) of the Clean Water Act (CWA), the Regional Administrator for EPA, Region 5, approved the State of Wisconsin's modification of its existing Wisconsin Pollutant Discharge Elimination System (WPDES) program to include the administration and enforcement of a state sewage sludge management program where it has jurisdiction.

FOR FURTHER INFORMATION CONTACT: David Soong, at (312) 886–0136, NPDES Support and Technical Assistance Branch, (WN–16J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, or electronically at soong.david@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' means EPA.

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I. Introduction

Wisconsin's application to modify its existing WPDES program to administer and enforce a state sewage sludge management program was submitted on May 26, 1998. Specifically, the state sought approval of a sludge management program which addresses the land application of sludge, surface disposal of sludge, and the landfilling of sludge. On March 8, 1999, the state amended its submittal limiting the state's request to all sludge activities mentioned above within the state except for those activities occurring within ''Indian Country'' as defined in 18 U.S.C. 1151. The state's sludge management program does not extend to Indian Country, and will not include lands within the exterior boundaries of Indian reservations within or abutting the State of Wisconsin, as they did not seek approval for these areas at this time. Wisconsin did not seek approval for the incineration of sludge or the land application of septage. The sludge management program is administered by the Wisconsin Department of Natural Resource (WDNR). Modifications were made to the program submittal based on discussions between EPA and WDNR. These modifications are part of the record of the program application and review process.

II. Was Notice Provided Seeking Public Comments on Wisconsin's Program Submittal?

Wisconsin's application was described in the May 8, 2000 **Federal Register** (65 FR 26607–26611), in which EPA requested public comments for a period of 45 days. Further notice was provided by way of publication in the following newspapers on May 8, 2000: Wisconsin State Journal; Milwaukee Journal/Sentinel; Green Bay Press Gazette; Superior Daily Telegram; Lacrosse Tribune; Eau Claire Leader Telegram; and Wausau Daily Herald. EPA also provided copies of the public notice to interested persons and parties: permitted facilities, Indian tribes, other Federal and state agencies, and environmental groups within Wisconsin. Copies of WDNR's application package were available for public review at the EPA Region 5 Office and at WDNR's regional offices.

III. Was a Public Hearing Held?

A public hearing was not held. The above notice explained that a hearing had not been scheduled and how a hearing could be requested. EPA will hold a public hearing whenever the Regional Administrator finds, on the basis of requests, a significant degree of public interest. No request for a hearing was received during the public comment period and therefore, no hearing was held.

IV. Was the State Historic Preservation Officer and the U.S. Fish & Wildlife Service Contacted?

By letter dated February 23, 2000, we requested concurrence from the State Historic Preservation Officer that approval of WDNR to implement a sewage sludge management program would not have an adverse impact on historical and archeological resources. We received concurrence on April 12, 2000.

EPA and WDNR discussed the program application with the Green Bay Ecological Services Field Office of the U.S. Fish and Wildlife Service (FWS). On July 20, 2000, an agreement was reached. The objective of the agreement is to ensure compliance with conditions of the Endangered Species Act. The agreement provides that:

1. land application of municipal sludge on actively farmed agricultural land (cultivated within the previous two years) will not have an adverse impact on federally-listed threatened or endangered species or its critical habitat listed as of July 28, 2000, when done in compliance with state rules;

2. the 1999 Wisconsin Statewide Habitat Conservation Plan (HCP) for the Karner Blue Butterfly and Incidental Take Permit TE 010064 issued for the HCP by the FWS covers any incidental take that may occur to the Karner Blue Butterfly as a result of spreading municipal sewage on actively farmed agricultural land until September 27, 2009. It is understood that the issue may need to be further addressed if the HCP and permit are amended in the interim

[1] Note that the plan provides for a regional PM10 emission budget which is applicable for both the annual and 24 hour PM–10 standards.

or are not renewed after the ten year term is over on September 27, 2009;

3. WDNR will notify the FWS Green Bay Ecological Services Field Office of any site request received in Dane, Grant, Pierce, Rock, or Sauk Counties for land that has been fallow for a period of two years or longer to ensure protection of prairie bush-clover, a federally-listed threatened species.

If new information becomes available that indicates these species, additional species, newly listed species or designated critical habitat may be affected by the land application of municipal sewage sludge, appropriate remedies will be discussed by WDNR, EPA, and FWS.

V. Did EPA Receive Any Public Comments?

Pursuant to the public notice, we accepted written comments from the public postmarked on or before June 22, 2000. During the comment period, we received two comments. These commenters fully support the modification of the state's WPDES program to include the administration and enforcement of a sludge management program.

VI. Does EPA's Approval Affect Indian Country (18 U.S.C. 1151) in Wisconsin?

As stated above, WDNR did not seek approval to administer and enforce the state sewage sludge management program for activities occurring in Indian Country. Our approval does not authorize WDNR to carry out its WPDES program in Indian Country, which includes:

1. Lands within the exterior boundaries of the following Indian Reservations within or abutting the State of Wisconsin:
   a. Bad River Indian Reservation.
   b. Forest County Indian Reservation.
   c. Ho-Chunk Nation Indian Reservation.
   d. Lac Courte Oreilles Indian Reservation.
   e. Lac Du Flambeau Indian Reservation.
   f. Menominee Indian Reservation.
   g. Oneida Indian Reservation.
   h. Red Cliff Indian Reservation.
   i. Sokaogon (Mole Lake) Indian Reservation.
   j. St. Croix Indian Reservation.
   k. Stockbridge-Munsee Indian Reservation.
2. Any land held in trust by the U.S. for any Indian tribe, and
3. Any other land, whether on or off a reservation that qualifies as Indian Country.

Therefore, our approval of the state's sludge management program, will have no effect in Indian Country where EPA continues to implement and administer the NPDES program.

VII. Conclusion

The Wisconsin Department of Natural Resources has demonstrated that it adequately meets the requirements for program modification to include sludge management (specifically, the application of sludge, surface disposal of sludge, and the landfilling of sludge) as defined in the Clean Water Act and 40 CFR parts 123, 501 and 503.

At this time, EPA is withholding authorization to administer the sewage sludge management program for the incineration of sludge, the land application of septage, and activities occurring in Indian Country, as mentioned above.

VIII. Federal Register Notice of Approval of State NPDES Programs or Modifications

EPA must provide **Federal Register** notice of any action by the Agency approving or modifying a State NPDES program. The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country. Today's **Federal Register** notice is to announce the approval of Wisconsin's authority to administer the sludge management program.

STATE NPDES PROGRAM STATUS

State	Approved State NPDES permit program	Approved to regulate federal facilities	Approved state pretreatment program	Approved general permits program	Approved sludge management program
Alabama	10/19/79	10/19/79	10/19/79	06/26/91	.....
Arkansas	11/01/86	11/01/86	11/01/86	11/01/86	.....
California	05/14/73	05/05/78	09/22/89	09/22/89	.....
Colorado	03/27/75	.....	.....	03/04/83	.....
Connecticut	09/26/73	01/09/89	06/03/81	03/10/92	.....
Delaware	04/01/74	.....	.....	10/23/92	.....
Florida [1]	05/01/95	.....	05/01/95	05/01/95	.....
Georgia	06/28/74	12/08/80	03/12/81	01/28/91	.....
Hawaii	11/28/74	06/01/79	08/12/83	09/30/91	.....
Illinois	10/23/77	09/20/79	.....	01/04/84	.....
Indiana	01/01/75	12/09/78	.....	04/02/91	.....
Iowa	08/10/78	08/10/78	06/03/81	08/12/92	.....
Kansas	06/28/74	08/28/85	.....	11/24/93	.....
Kentucky	09/30/83	09/30/83	09/30/83	09/30/83	.....
Louisiana	09/11/96	09/11/96	09/11/96	09/11/96	.....
Maryland	09/05/74	11/10/87	09/30/85	09/30/91	.....
Michigan	10/17/73	12/09/78	04/16/85	11/29/93	.....
Minnesota	06/30/74	12/09/78	07/16/79	12/15/87	.....
Mississippi	05/01/74	01/28/83	05/13/82	09/27/91	.....
Missouri	10/30/74	06/26/79	06/03/81	12/12/85	.....
Montana	06/10/74	06/23/81	.....	04/29/83	.....
Nebraska	06/12/74	11/02/79	09/07/84	07/20/89	.....
Nevada	09/19/75	08/31/78	.....	07/27/92	.....
New Jersey	04/13/82	04/13/82	04/13/82	04/13/82	.....
New York	10/28/75	06/13/80	.....	10/15/92	.....
North Carolina	10/19/75	09/28/84	06/14/82	09/06/91	.....
North Dakota	06/13/75	01/22/90	.....	01/22/90	.....
Ohio	03/11/74	01/28/83	07/27/83	08/17/92	.....
Oklahoma	11/19/96	11/19/96	11/19/96	.....	11/19/96

STATE NPDES PROGRAM STATUS—Continued

State	Approved State NPDES permit program	Approved to regulate federal facilities	Approved state pretreatment program	Approved general permits program	Approved sludge management program
Oregon	09/26/73	03/02/79	03/12/81	02/23/82	.....
Pennsylvania	06/30/78	06/30/78	.....	08/02/91	.....
Rhode Island	09/17/84	09/17/84	09/17/84	09/17/84	.....
South Carolina	06/10/75	09/26/80	04/09/82	09/03/92	.....
South Dakota	12/30/93	12/30/93	12/30/93	12/30/93	.....
Tennessee	12/28/77	09/30/86	08/10/83	04/18/91	.....
Texas	09/24/98	09/24/98	09/24/98	09/24/98	09/24/98
Utah	07/07/87	07/07/87	07/07/87	07/07/87	06/14/96
Vermont	03/11/74	.....	03/16/82	08/26/93	.....
Virgin Islands	06/30/76	.....	.....	.....	.....
Virginia	03/31/75	02/09/82	04/14/89	04/20/91	.....
Washington	11/14/73	.....	09/30/86	09/26/89	.....
West Virginia	05/10/82	05/10/82	05/10/82	05/10/82	.....
Wisconsin	02/04/74	11/26/79	12/24/80	12/19/86	07/28/00
Wyoming	01/30/75	05/18/81	.....	09/24/91	.....
Totals	44	38	32	42	04

Number of Fully Authorized Programs (Federal Facilities, Pretreatment, General Permits) = 28.
Number of authorized Sludge Management Programs = 4.
[1] The Florida authorizations of 05/01/95 represents a phased NPDES program authorization to be completed by the year 2000.

IX. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from the requirements of Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045: Children's Health Protection

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.

Today's action is not subject to Executive Order 13045 because it does not involve decisions based on environmental health or safety risks.

C. 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 affects 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. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, 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 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 action is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Wisconsin is not authorized to implement the NPDES program in Indian Country. Therefore, today's action has no effect on Indian Country within the state.

D. Executive Order 13132: Federalism

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

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that impose 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.

Today's action does not have federalism implications. It does 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, because this action only effects one State. The approval simply modifies Wisconsin's existing program that they have

voluntarily chosen to operate. Further, as a result of the approval, provisions of Wisconsin's sludge management program apply in lieu of the equivalent federal program provisions implemented by EPA under the CWA. Affected parties are subject only to those authorized state program provisions, as opposed to being subject to both federal and state regulatory requirements. Thus, the requirements of section 6 of the Executive Order do not apply.

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

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures 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 not-for-profit enterprises, and small governmental jurisdictions.

Today's action does not have a significant impact on a substantial number of small entities because it does not impose any new requirements on small entities because small entities that generate or prepare sewage sludge for land application, landfilling, or surface disposal are already subject to the regulatory requirements under state and federal laws. With approval of the program modification, the state's program applies in lieu of the equivalent federal program. Therefore, because the approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), signed into law on March 22, 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 annual 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.

EPA has determined that this action does not include a federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. With EPA's approval of the program modification, the state's program applies in lieu of the equivalent federal program, therefore, imposing no new requirements under state or local law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. 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 a new regulation. To comply with NTTAA, 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.

EPA believes that VCS are inapplicable to this action. Today's action does not involve technical standards.

H. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any informational request contained in a proposed rule or a final rule. Today's action will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Parts 123 and 501

Environmental protection, Administrative practice and procedures, Indian lands, Intergovernmental relations, Water pollution control, Waste treatment and disposal.

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

Dated: August 10, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 00–21078 Filed 8–17–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following collections of information titled: (1) Application for a Bank to Establish a Branch or Move Its Main Office or Branch; (2) Application for Consent to Reduce or Retire Capital; (3) Activities and Investments of Savings Associations, and (4) Application for Consent to Exercise Trust Powers.

DATES: Comments must be submitted on or before October 17, 2000.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to the OMB control number. 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 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments @ fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collections of Information

1. *Title:* Application for a Bank to Establish a Branch or Move Its Main Office or Branch.

OMB Number: 3064–0070.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 1,650.

Estimated Time per Response: 5 hours.

Total Annual Burden: 8,250 hours.

General Description of Collection: Section 18(d) of the Federal Deposit Insurance Act (12 USC 1828(d)) provides that no state nonmember insured bank shall establish and operate any new domestic branch or move its main office or any such branch from one location to another without the prior written consent of the FDIC.

2. *Title:* Application for Consent to Reduce or Retire Capital.

OMB Number: 3064–0079.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 100.

Estimated Time per Response: 1 hour.

Total Annual Burden: 100 hours.

General Description of Collection: This collection requires insured state nonmember banks that propose to change their capital structure to submit an application containing information about the proposed change in order to obtain FDIC's consent to reduce or retire capital. The FDIC evaluates the information contained in the letter application in relation to statutory considerations and makes a decision to grant or to withhold consent.

3. *Title:* Activities and Investments of Savings Associations.

OMB Number: 3064–0104.

Frequency of Response: On occasion.

Affected Public: Savings associations.

Estimated Number of Respondents: 20.

Estimated Time per Response: 5 hours.

Total Annual Burden: 100 hours.

General Description of Collection: The collection of information identifies the information that state savings associations and/or their subsidiaries must submit to obtain the FDIC's approval or objection to engage in certain activities.

4. *Title:* Application for Consent to Exercise Trust Powers.

OMB Number: 3064–0025.

Form Number: 6200/09.

Frequency of Response: On occasion.

Affected Public: All financial institutions.

Estimated Number of Respondents: 43.

Estimated Time per Response: 35 applications—8 hours; 8 applications—24 hours.

Total Annual burden: 472 hours.

General Description of Collection: Insured state nonmember banks submit applications to FDIC for consent to exercise trust powers. Applications are evaluated by FDIC to verify qualifications of bank management to administer a trust department and to ensure that bank's financial condition will not be jeopardized as a result of trust operations.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated at Washington, D.C., this 11th day of August, 2000.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 00–21001 Filed 8–17–00; 8:45 am]

BILLING CODE 6714–01–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of teleconference meeting.

SUMMARY: In accordance with § 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

Name: Technical Mapping Advisory Council.

Date of Meeting: August 22, 2000.

Place: The FEMA Conference Operator in Washington, DC will administer the teleconference. Individuals interested in participating should call 1–800–320–4330 at the time of the teleconference. Callers will be prompted for the conference code, #16, and they will then be connected through to the teleconference.

Time: 11:00 a.m. to 1:00 p.m., EST.

Proposed Agenda:

1. Call to order.
2. Announcements.
3. Action on minutes from July 2000 meeting.
4. Review Annual and Year 2000 Report draft text.
5. Discuss agenda for October 2000 meeting.
6. New business.
7. Adjournment.

Status: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Ms. Sally P. Magee, Federal Emergency Management Agency, 500 C Street SW., room 442, Washington, DC 20472, telephone (202) 646–8242 or by facsimile at (202) 646–4596.

SUPPLEMENTARY INFORMATION: Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved by the next Technical Mapping Advisory Council meeting in October 2000.

Dated: August 14, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–21097 Filed 8–17–00; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor,

and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Mary M. West—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829); OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7860).

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Request for Proposal (RFP); Request for Price Quotations (RFPQ).
Agency form number: RFP; RFPQ.
OMB control number: 7100–0180.
Frequency: On occasion.
Reporters: Vendors and suppliers.
Annual reporting hours: 15,000 hours.
Estimated average hours per response: 56 hours (RFP); 2 hours (RFPQ).
Number of respondents: 75 (RFP); 5,400 (RFPQ).
Small businesses are affected.
General description of report: This information collection is required to obtain or retain a benefit (12 U.S.C. sections 243, 244, and 248) and is not given confidential treatment unless a respondent requests that portions of the information be kept confidential and the Board grants the request pursuant to the applicable exemptions provided by the Freedom of Information Act (5 U.S.C. section 552).
Abstract: The Federal Reserve Board uses the RFP and the RFPQ as needed to obtain competitive proposals and contracts from approved vendors of goods and services. Depending upon the goods and services for which the Federal Reserve Board is seeking competitive bids, the respondent is requested to provide either prices for providing the goods or services (RFPQ) or a document covering not only prices, but also the means of performing a particular service and a description of the qualification of the staff who will perform the service (RFP). The Board staff uses this information to analyze the proposals and select the offer providing the best value.

2. *Report title:* Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y.
Agency form number: FR H–4.
OMB control number: 7100–0250.
Frequency: Event generated.
Reporters: State member banks and bank holding company subsidiaries.
Annual reporting hours: 67,588 hours.
Estimated average hours per response: 15 minutes.
Number of respondents: 2,235.
Small businesses are not affected.
General description of report: This information collection is mandatory (12 U.S.C. Sections 3331–3351) and is not given confidential treatment.
Abstract: For federally related transactions, Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) requires state member banks and bank holding company subsidiaries to use appraisals prepared in accordance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. These standards include the methods and techniques used to analyze a property as well as the requirements for reporting such analysis and a value conclusion in the appraisal. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Board of Governors of the Federal Reserve System.
August 14, 2000.

Jennifer J. Johnson,
Secretary of the Board.

[FR Doc. 00–21035 Filed 8–17–00; 8:45 am]
BILLING CODE 6210–01–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 September 11, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer), 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Premier Bancorp, Inc., Wilmette, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Premier Bank, Wilmette, Illinois.

Board of Governors of the Federal Reserve System, August 14, 2000.

Robert deV. Frierson,
Associate Secretary of the Board.

[FR Doc. 00–21034 Filed 8–17–00; 8:45 am]
BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 65 FR 49808, August 15, 2000.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, August 16, 2000.

CHANGES IN THE MEETING: The open meeting has been canceled, and the scheduled item was handled via notation voting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: August 16, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–21175 Filed 8–16–00; 1:24 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Differences in Capital and Accounting Standards Among the Federal Banking and Thrift Agencies; Report to Congressional Committees

AGENCY: Board of Governors of the Federal Reserve System (FRB).

ACTION: Notice of report to the Committee on Banking, Housing, and Urban Affairs of the United States Senate and to the Committee on Banking and Financial Services of the United States House of Representatives.

SUMMARY: This report was prepared by the FRB pursuant to section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1831n(c)). Section 121 requires each Federal banking and thrift agency to report annually to the above specified Congressional Committees regarding any differences between the accounting or capital standards used by such agency and the accounting or capital standards used by other banking and thrift agencies. The report must be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Norah Barger, Assistant Director (202/452–2402), Barbara Bouchard, Manager (202/452–3072), Charles Holm, Manager (202/452–3502), or Anna Lee Hewko, Financial Analyst (202/530–6260), Division of Banking Supervision and Regulation. For the hearing impaired *only,* Telecommunication Device for the Deaf (TDD), Janice Simms (202/872–4984), Board of Governors of the Federal Reserve System, 20th & C Streets, NW, Washington DC 20551.

SUPPLEMENTARY INFORMATION: The text of the report follows:

Report to the Congressional Committees Regarding Differences in Capital and Accounting Standards Among the Federal Banking and Thrift Agencies

Introduction and Overview

Section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991, 12 U.S.C. 1831n(c)) requires each Federal banking and thrift agency to report annually to the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate and to the Committee on Banking and Financial Services of the U.S. House of Representatives regarding any differences between the accounting or capital standards used by such agency and the accounting or capital standards used by other banking and thrift agencies. The report must be published in the **Federal Register**.

This is the tenth annual report on the differences in capital standards and accounting practices that currently exist among the three banking agencies (the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC)) and the Office of Thrift Supervision (OTS).

As stated in the previous reports to Congress, the three bank regulatory agencies have, for a number of years, employed a common regulatory framework that establishes minimum capital adequacy ratios for commercial banking organizations. In 1989, all three banking agencies and the OTS adopted risk-based capital frameworks that were based upon the international capital accord (Basel Accord) developed by the Basel Committee on Banking Regulations and Supervisory Practices (Basel Supervisors Committee) and endorsed by the central bank governors of the G–10 countries.

The risk-based capital framework establishes minimum ratios of capital to risk-weighted assets. The Basel Accord requires banking organizations to have total capital (tier 1 plus tier 2) equal to at least eight percent, and tier one capital equal to at least four percent, of risk-weighted assets. Tier 1 capital includes common stock and surplus, retained earnings, qualifying perpetual preferred stock and surplus, and minority interest in consolidated subsidiaries, less disallowed intangibles such as goodwill. Tier 2 capital includes certain supplementary capital items such as general loan loss reserves, subordinated debt, and certain other preferred stock and convertible debt capital instruments, subject to appropriate limitations and conditions. The amount of tier 2 includable in total regulatory capital is limited to 100 percent of tier 1. In addition, institutions that incorporate market risk exposure into their risk-based capital requirements may use limited amounts of ''tier 3'' capital (*i.e.,* short-term subordinated debt with certain restrictions on repayment provisions) to support their exposure to market risk. Risk-weighted assets are calculated by assigning risk weights of zero, 20, 50, and 100 percent to broad categories of assets and off-balance sheet items based upon their relative credit risk. The OTS has adopted a risk-based capital standard that in most respects is similar to the framework adopted by the banking agencies. Differences between the OTS capital rules and those of the banking agencies are noted elsewhere in this report.

The measurement of capital adequacy in the present framework is mainly directed toward assessing capital in relation to credit risk. In December 1995, the G–10 Governors endorsed an amendment to the Basel Accord that, in January 1998, required internationally-active banks to measure and hold capital to support their market risk exposure. Specifically, certain banks are required to hold capital against their exposure to general market risk associated with changes in interest rates, equity prices, exchange rates, and commodity prices, as well as for exposure to specific risk associated with equity positions and certain debt positions in the trading portfolio. The FRB, FDIC, and OCC issued in August 1996 amendments to their respective risk-based capital standards that implemented the market risk amendment to the Basel Accord. The banking agencies' amendments generally require institutions with trading assets and liabilities greater than or equal to either ten percent of assets or $1 billion to apply the market risk rules. The OTS did not amend its capital rules in this regard since savings institutions do not have such significant levels of trading activity.

The three U.S. banking agencies are represented on the Basel Supervisors Committee, which in June 1999 issued a consultative paper outlining a proposed new capital adequacy framework. The new framework, which is still under development, is designed to improve the way regulatory capital requirements reflect underlying risks. As eventual changes to the Accord are implemented in the United States, the agencies will continue to work together to ensure consistent implementation across regulated entities.

In addition to the risk-based capital requirements, the agencies also have established leverage standards setting forth minimum ratios of capital to total assets. The three banking agencies have long employed uniform leverage standards, whereas the OTS established, pursuant to FIRREA, a somewhat different standard. As discussed below, in March 1999, the agencies issued a final rule making the OTS's leverage capital requirements more consistent with those of the banking agencies.

All of the agencies view the risk-based capital standards as a minimum supervisory benchmark. In part, this is because the risk-based capital framework focuses primarily on credit risk; it does not take full or explicit account of certain other banking risks,

such as exposure to operational risk. The full range of risks to which depository institutions are exposed are reviewed and evaluated carefully during on-site examinations. In view of these risks, most banking organizations are expected to, and generally do, maintain capital levels well above the minimum risk-based and leverage capital requirements.

The staffs of the agencies meet regularly to identify and address differences and inconsistencies in the application of their capital standards. The agencies are committed to continuing this process in an effort to achieve full uniformity in their capital standards. In addition, the agencies have considered the remaining differences as part of a regulatory review undertaken to comply with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act), which specifies that the agencies ''make uniform all regulations and guidelines implementing common statutory or supervisory policies.'' Going forward, the agencies will continue to work together closely on areas of common interest as they implement the Gramm-Leach-Bliley Act.

Efforts to Achieve Uniformity

Leverage Capital Ratio

The three banking agencies employ leverage standards based upon the common definition of tier 1 capital contained in their risk-based capital guidelines. These standards, established in the second half of 1990 and early in 1991, require the most highly-rated institutions to meet a minimum tier 1 capital leverage ratio of 3.0 percent. On March 2, 1999, the agencies issued a final rule to require all other institutions to meet a minimum tier 1 leverage ratio of 4.0 percent. This final rule, which became effective April 1, 1999, also made the OTS's leverage capital standards more consistent with those of the banking agencies. As required by FIRREA, the OTS has established a capital ratio of 3.0 or 4.0 percent, depending upon a thrift's financial condition, and a 1.5 percent tangible capital leverage requirement for thrift institutions. Certain adjustments discussed in this report apply to the core capital definition used by savings associations.

Risk-Based Capital Ratio

The agencies issued a final rule on March 2, 1999, to eliminate interagency differences in the risk-based capital treatment of presold residential properties, junior liens on 1- to 4-family residential properties, and investments in mutual funds. This rule, which became effective April 1, 1999, established the following risk-based capital treatments:

Construction Loans on Presold Residential Property

The agencies agreed to assign a qualifying loan to a builder to finance the construction of a presold 1- to 4-family residential property to the 50 percent risk category once the property is sold, whether the sale occurs before or after the construction loan has been made.

Junior Liens on 1- to 4- Family Residential Properties

In some cases, a banking organization may make two loans on a single residential property, one secured by a first lien, the other by a second lien. In such a situation, the agencies agreed to view these two transactions as a single loan secured by a first lien, provided there are no intervening liens. The total amount of these transactions is assigned to either the 50 percent or the 100 percent risk weight category, depending on whether certain other criteria are met. One criterion is that the loan must be made in accordance with prudent underwriting standards, including an appropriate ratio of the loan balance to the value of the property (the loan-to-value ratio or LTV). When considering whether a loan is consistent with prudent underwriting standards, the agencies evaluate the LTV ratio based on the combined loan amount. If the combined loan amount satisfies prudent underwriting standards and the loan is considered to be performing adequately, both the first and second lien are assigned to the 50 percent risk category. Otherwise, both liens are risk-weighted at 100 percent.

Mutual Funds

The agencies agreed generally to assign all of a bank's holding in a mutual fund to the risk category appropriate to the asset with the highest risk weight that a particular mutual fund is permitted to hold under its prospectus. The agencies also agreed, on a case-by-case basis, to permit an institution's investment to be allocated on a pro rata basis among the risk categories based on a pro rata distribution of allowable investments under the fund's prospectus.

Elimination of Previous Differences in Accounting Standards

Commercial banks file Uniform Reports of Condition and Income (Call Reports) with the three banking agencies using accounting standards for recognition and measurement purposes that are consistent with GAAP. Savings associations file Thrift Financial Reports with the OTS using accounting standards that are also consistent with GAAP. Accordingly, there are no material differences in the accounting standards used for regulatory reports filed with the three banking agencies and the OTS.

Capital Differences

Remaining differences among the risk-based capital standards of the OTS and the three banking agencies are discussed below.

Certain Collateralized Transactions

The FRB permits certain collateralized transactions to be risk-weighted at zero percent. This preferential treatment is available only for claims fully collateralized by cash on deposit in the bank or by securities issued or guaranteed by OECD central governments or U.S. government agencies. A positive margin of collateral must be maintained and the collateral must be marked to market daily. Other collateralized claims, or portions thereof, are risk-weighted at 20 percent.

The OCC rule incorporates similar conditions on collateralized claims eligible for a zero percent risk weight. The OCC's rule, however, permits portions of claims collateralized by cash or OECD government securities to receive a zero percent risk weight. Under the FDIC's and OTS's rules, portions of claims collateralized by cash or OECD government securities receive a 20 percent risk weight; a zero percent risk weight is not available for collateralized transactions.

On August 16, 1996, the four agencies published a joint proposed rulemaking that would, if implemented, make uniform the agencies' risk-based capital treatment for these types of collateralized transactions. Under the proposed rule, portions of claims collateralized by cash or OECD government securities could be assigned a zero percent risk weight, provided the transactions meet certain criteria, including daily mark to market and positive collateral margin requirements. Agency staffs are working to finalize this outstanding proposal as soon as possible.

FSLIC/FDIC-Covered Assets (Assets Subject to Guarantee Arrangements by the FSLIC or FDIC)

The three banking agencies generally place these assets in the 20 percent risk category, the same category to which claims on depository institutions and

government-sponsored agencies are assigned. The OTS places these assets in the zero percent risk category.

Limitation of Subordinated Debt and Limited-Life Preferred Stock

The three banking agencies limit the amount of subordinated debt and limited-life preferred stock that may be included in tier 2 capital to 50 percent of tier 1 capital. In addition, maturing capital instruments must be discounted by 20 percent in each of the last five years prior to maturity. The OTS has no limitation on the total amount of limited-life preferred stock or maturing capital instruments that may be included within tier 2 capital. The OTS also allows savings institutions the option of: (1) Discounting maturing capital instruments issued on or after November 7, 1989, by 20 percent a year over the last 5 years of their term, or (2) including the full amount of such instruments, provided that the amount maturing in any of the next seven years does not exceed 20 percent of the thrift's total capital.

Subsidiaries

Consistent with the Basel Accord and long-standing supervisory practices, the three banking agencies generally consolidate all significant majority-owned subsidiaries of the parent organization for capital purposes. This consolidation assures that the capital requirements are related to all of the risks to which the banking organization is exposed. As with most other bank subsidiaries, banking and finance subsidiaries generally are consolidated for regulatory capital purposes. However, in cases where banking and finance subsidiaries are not consolidated, the FRB, consistent with the Basel Accord, generally deducts investments in such subsidiaries in determining the adequacy of the parent bank's capital.

The FRB's risk-based capital guidelines provide a degree of flexibility in the capital treatment of unconsolidated subsidiaries (other than banking and finance subsidiaries) and investments in joint ventures and associated companies. For example, the FRB may deduct investments in such subsidiaries from an organization's capital, apply an appropriate risk-weighted capital charge against the proportionate share of the assets of the entity, require a line-by-line consolidation of the entity, or otherwise require that the parent organization maintain a level of capital above the minimum standard that is sufficient to compensate for any risk associated with the investment.

The guidelines also permit the deduction of investments in subsidiaries that, while consolidated for accounting purposes, are not consolidated for certain specified supervisory or regulatory purposes. The FDIC accords similar treatment to securities subsidiaries of state nonmember banks established pursuant to Section 337.4 of the FDIC regulations.

Similarly, in accordance with Section 325.5(f) of the FDIC regulations, a state nonmember bank must deduct investments in, and extensions of credit to, certain mortgage banking subsidiaries in computing the parent bank's capital. The FRB does not have a similar requirement with regard to mortgage banking subsidiaries. The OCC does not have requirements dealing specifically with the capital treatment of either mortgage banking or securities subsidiaries. The OCC does, however, reserve the right to require a national bank to deduct from capital, on a case-by-case basis, investments in, and extensions of credit to, any nonbanking subsidiary.

The deduction of investments in subsidiaries from the parent's capital is designed to ensure that the capital supporting the subsidiary is not also used as the basis of further leveraging and risk-taking by the parent banking organization. In deducting investments in, and advances to, certain subsidiaries from the parent's capital, the FRB expects the parent banking organization to meet or exceed minimum regulatory capital standards without reliance on the capital invested in the particular subsidiary. In assessing the overall capital adequacy of banking organizations, the FRB also considers the organization's fully consolidated capital position.

Under the OTS capital guidelines, a distinction, mandated by FIRREA, is drawn between subsidiaries that are engaged in activities permissible for national banks and subsidiaries that are engaged in activities ''impermissible'' for national banks. Subsidiaries of thrift institutions that engage only in impermissible activities are consolidated on a line-by-line basis if ownership is between 5 and 50 percent. As a general rule, investments, including loans, in subsidiaries that engage in impermissible activities are deducted in determining the capital adequacy of the parent.

Mortgage-Backed Securities (MBS)

The three banking agencies, in general, place privately-issued MBS in a risk category appropriate to the underlying assets but in no case in the zero percent risk category. In the case of privately-issued MBS, where the direct underlying assets are mortgages, this treatment generally results in a risk weight of 50 percent or 100 percent. Privately-issued MBS that have government agency or government-sponsored agency securities as their direct underlying assets are generally assigned to the 20 percent risk category.

The OTS assigns privately-issued high quality mortgage-related securities to the 20 percent risk category. These are, generally, privately-issued MBS with AA or better investment ratings.

Both the banking and the thrift agencies automatically assign to the 100 percent risk weight category certain MBS, including interest-only strips, residuals, and similar instruments, that can absorb more than their pro rata share of loss.

Pledged Deposits and Nonwithdrawable Accounts

The capital guidelines of the OTS permit thrift institutions to include in capital certain pledged deposits and nonwithdrawable accounts that meet the criteria of the OTS. Income Capital Certificates and Mutual Capital Certificates held by the OTS may also be included in capital by thrift institutions. These instruments are not relevant to commercial banks and, therefore, are not addressed in the banking agencies' capital rules.

By order of the Board of Governors of the Federal Reserve System, August 14, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–21036 Filed 8–17–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to provide review of contract proposals and recommendations to the Director, AHRQ, regarding the technical merit of proposals submitted in response to a Request for Proposals (RFPs) regarding ''Development of Standard Measures''. The RFP was published in the Commerce Business Daily on July 6, 2000.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR section 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary information and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

Name of TRC: The Agency for Healthcare Research and Quality—''Development of Standard Measures.''

Date: August 24, 2000 (Closed to the public).

Place: Agency for Healthcare Research and Quality, 6010 Executive Blvd., 4th Floor Conference Center, Rockville, Maryland 20852

Contact Person: Anyone wishing to obtain information regarding this meeting should contact Nancy Foster, Center for Quality Measurement & Improvement, Agency for Healthcare Research and Quality, 2101 East Jefferson Street, Suite 502, Rockville, Maryland, 20852, 301–594–1609.

This notice is being published less than 15 days prior to the August 24th meeting due to the time constraints of reviews and funding cycles.

Dated: August 11, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–21098 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–60–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Collaborative US-Mexico Border Diabetes Prevention and Control Project—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP)—The Pan American Health Organization (PAHO), El Paso field office, and the United States-Mexico Border Health Association (USMBHA) in collaboration with the United States/Mexico Border Diabetes Prevention and Control Project Work Group (USMBDPCP) is requesting funds for a binational diabetes prevention and control project on the United States-Mexico border that begins with an evaluation of the burden of diabetes on the border (Phase 1) and expands into a program implementation (Phase 2), using the results from Phase 1. This proposed project is responding to President Clinton's Initiative on Racial and Ethnic Health Disparities, as well as the Mexican Secretariat Adult and Elderly Health Program strategy in which diabetes is a national health priority. Diabetes has also been declared a binational border priority by the USMBHA General Assembly in a resolution to develop diabetes control infrastructure on the border.

The purpose of the project is to diminish the impact of diabetes on the border population by conducting activities in two related and chronological phases (prevalence study and intervention program). Phase 1 will assess the prevalence of diabetes, related behavioral risk factors, and assess the health services for the border population. The information collected through this household survey will serve as a guide for the development of diabetes education and training activities in Phase 2. These programs will be culturally appropriate and will include the participation of community health workers (promotores) and primary healthcare providers. Initial planning and promotional activities needed for Phase 2 will take place concurrent with Phase 1.

Activities for years two through five will include implementation of community interventions, capacity building, and program evaluation. The household survey will be repeated in the fifth year of the project.

The PAHO/USMBHA and the USMBDPCP Work Group have obtained considerable financial support for this proposed project. The total estimated annualized burden hours are 2835.

Form name	Number of respondents	Responses per respondent	Responses in hours	Response burden
Household Screening	5186	1	2/60	173
Household Survey	3630	1	40/60	2420
Quality Control (10% repeat)	363	1	40/60	242

Dated: August 14, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–21048 Filed 8–17–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00132]

Cooperative Agreement to the Joint United Nations Programme on HIV/AIDS (UNAIDS); Notice of the Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC), National Center for HIV/STD/TB Prevention (NCHSTP), announces the availability of funds for fiscal year (FY) 2000 for a sole source cooperative agreement with the Joint United Nations Programme on HIV/AIDS (UNAIDS).

The purpose of this agreement is to help support and ensure implementation of the Leadership and Investment in Fighting an Epidemic (LIFE) Initiative, a United States Government program that seeks to reduce the impact of HIV/AIDS in sub-Saharan African countries and India by strengthening the capacity of national AIDS control programs in the areas of (1) HIV primary prevention, (2) HIV care, support, and treatment, and (3) capacity and infrastructure development. At present, those countries are Botswana, Cote D'Ivoire, Kenya, South Africa, Uganda, Rwanda, Zimbabwe, Ethiopia, Mozambique, Malawi, Tanzania, Nigeria, Senegal, Zambia and India. The countries targeted represent those with the most severe epidemic and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active.

This agreement supports a framework of interventions, grounded in a series of goals and objectives consistent with those established for the international community by UNAIDS in support of the International Partnership Against AIDS in Africa (IPAA).

According to recent estimates from UNAIDS and the World Health Organization (WHO), 32.4 million adults and 1.2 million children will be living with HIV by the end of 1999. Of the total estimate, approximately 23.3 million (69% of the total world-wide) adults and children are living with AIDS in sub-Saharan Africa alone. Of that total, approximately 3.8 million adults and children represent those newly infected with HIV in 1999. India carries the majority of the burden associated with an additional 1.3 million adults and children newly infected with HIV in 1999. As a key partner in the U.S. Government's LIFE Initiative, CDC, through its Global AIDS Activity (GAA), is working in a collaborative manner with national governments, USAID and other Federal agencies, and other international donor agency partners to develop programs of assistance to address the HIV/AIDS epidemic in LIFE Initiative countries.

B. Eligible Applicants

Assistance will be provided only to the Joint United Nations Programme on HIV/AIDS (UNAIDS) in support of the LIFE Initiative. No other applications will be solicited.

UNAIDS is the most appropriate and qualified agency to conduct the activities under this cooperative agreement because:

1. As the Joint Programme for the entirety of the United Nations' efforts in the HIV/AIDS arena, UNAIDS is uniquely positioned to assist national AIDS control programs and other public health partners in development of capacity for HIV prevention and care.

2. UNAIDS is spearheading the International Partnership Against HIV/AIDS (IPAA) in Africa, an international umbrella effort to increase support and visibility for a multi-lateral emergency response to the AIDS epidemic in Africa. The LIFE Initiative is a key supporter of the IPAA.

3. The UNAIDS Secretariat currently administers a ''multi-bi'' instrument, the Programme Acceleration Fund (PAF), a mechanism for allocating resources through multiple UN Executing Agencies for multiple purposes in multiple countries, including those designated under the LIFE Initiative (UN Executing Agencies in countries are primarily the Cosponsoring Agencies of UNAIDS; World Health Organization (WHO), United Nations Children' Fund (UNICEF), United Nations Fund for Population Activities (UNFPA), United Nations Development Programme (UNDP), United Nations Education, Scientific and Cultural Organization (UNESCO), United Nations Drug Control Programme (UNDCP), and the World Bank.

4. UNAIDS, has the primary responsibility to foster expanded national responses to the epidemic, to promote strong commitments by governments to an expanded response, to strengthen and coordinate the United Nation' action of HIV/AIDS at the global and national levels, and to identify, develop and advocate international best practice.

C. Availability of Funds

Approximately $2,000,000 dollars is available in FY 2000 to fund this project. It is anticipated that the award will begin on September 30, 2000, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Use of Funds

General Use

Funds may be used for strengthening the technical capacity of national AIDS control programs, the purchase of drugs for primary prevention (e.g., Sexually Transmitted Diseases (STD) and Tuberculosis (TB) treatment, prevention of perinatal HIV transmission, and other opportunistic infections related to AIDS illness) and for equipment, supplies and reagents for rapid screening for HIV and STDs, and in support of the delivery of HIV prevention and care and treatment services.

General Non-Use

Funds received from this announcement will not be used for capital expenditures such as the purchase of off-road and multi-passenger vehicles, large volume (greater than 50) purchase of computers and data storage systems, space renovations and other significant improvements to physical environments where activities are carried out.

Specific Non-Use

Funds received from this announcement will not be used for the direct purchase of antiretroviral drugs for treatment of established HIV infection, occupational exposures, and non-occupational exposures and will not be used for the direct purchase of equipment and reagents to conduct hospital-based laboratory monitoring for patient care or confirmatory tests.

D. Submission and Deadline

Submit the original and two copies of PHS 5161 (OMB Number 0937–0189). Forms are in the application kit.

On or before September 15, 2000 submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional

Information'' section of this announcement.

E. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Scroll down the page, then click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Roslyn Curington, Grants Management Specialist, Centers for Disease Control and Prevention (CDC), Procurement and Grants Office, Room 3000, 2920 Brandywine Road, Mailstop E–15, Atlanta, GA 30341–4146, Telephone: (770) 488–2767, E-mail: zlp8@cdc.gov.

For program technical assistance, contact: Leo Weakland, Deputy Coordinator, Global AIDS Activity (GAA), National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Mailstop E–07, Atlanta, GA 30333, Telephone number (404) 639–8016, Email address: lfw0@cdc.gov.

Dated: August 14, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 00–21049 Filed 8–17–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00078]

National Conference of State Legislatures; Notice of Availability of Funds

A notice announcing the availability of Fiscal Year 2000 funds for a grant program with the National Conference of State Legislatures was published in the **Federal Register** on May 23, 2000 [Vol. 65 FR No. 100, pages 33327–33329] [FR Doc. 00–12882]. The notice is hereby rescinded in its entirety, due to the availability of new information. It appears that there may be other eligible applicants. Due to time constraints to award FY 2000 fund, funds will not be awarded under Program 00078. We anticipate that a new Program Announcement may be published in the **Federal Register** in FY2001, if funds are available.

Dated: August 14, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control And Prevention. (CDC)

[FR Doc. 00–21050 Filed 8–17–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1441]

Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection regarding the manufacturer of infant formula, including infant formula labeling, quality control procedures, notification requirements, and recordkeeping.

DATES: Submit written comments on the collection of information by October 17, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a proposed collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Infant Formula Requirements (OMB Control Number 0910–0256)—Extension

Statutory requirements for infant formula under the Federal Food, Drug, and Cosmetic Act (the act) are intended to protect the health of infants and include a number of reporting and recordkeeping requirements. Among other things, section 412 of the act (21 U.S.C. 350a) requires manufacturers of infant formula to establish and adhere to quality control procedures, notify FDA when a batch of infant formula that has left the manufacturers' control may be adulterated or misbranded, and keep records of distribution. FDA has issued regulations to implement the act's requirements for infant formula in parts 106 and 107 (21 CFR parts 106 and 107). FDA also regulates the labeling of infant formula under the authority of section 403 of the act (21 U.S.C. 343). Under the labeling regulations for infant formula in part 107, the label of an infant formula must include nutrient information and directions for use. The purpose of these labeling requirements

is to ensure that consumers have the information they need to prepare and use infant formula appropriately. In a document published in the **Federal Register** of July 9, 1996 (61 FR 36154), FDA proposed changes in the infant formula regulations, including some of those listed in tables 1 and 2 of this information. The document included revised burden estimates for the proposed changes and solicited public comment. In the interim, however, FDA is seeking an extension of OMB approval for the current regulations so that it can continue to collect information while the proposal is pending.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Federal Food, Drug, and Cosmetic Act (the act) or 21 CFR section	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Section 412(d) of the act	4	7	28	10	280
106.120(b)	4	0.25	1	4	4
107.10(a) and 107.20	4	7	28	8	224
107.50(b)(3) and (b)(4)	3	4	12	4	48
107.50(e)(2)	3	0.33	1	4	4
Total					560

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

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR section	Number of recordkeepers	Annual frequency of recordkeeping	Total annual records	Hours per record	Total hours
106.100	4	10	40	4,000	16,000
107.50(c)(3)	3	10	30	3,000	9,000
Total					25,000

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

In compiling these estimates, FDA consulted its records of the number of infant formula submissions received in the past. The figures for hours per response are based on estimates from experienced persons in the agency and in industry.

Dated: August 11, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–21009 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1440]

Agency Information Collection Activities: Proposed Collection; Comment Request; User Fee Cover Sheet; Form FDA 3397

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on Form FDA 3397, User Fee Cover Sheet, that must be submitted along with certain drug and biologic product applications and supplements.

DATES: Submit written or electronic comments on the collection of information by October 17, 2000.

ADDRESSES: Submit electronic comments on the collection of information via the Internet at http://www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comment on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the

burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

User Fee Cover Sheet; Form FDA 3397—(OMB Control Number 0910–0297)—Extension

Under sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g and 379h), the ''Prescription Drug User Fee Act of 1992'' (PDUFA) (Public Law 102–571), as amended by the Food and Drug Administration Modernization Act of 1997 (Public Law 105–115), FDA has the authority to assess and collect user fees for certain drug and biologics license applications and supplements. Under this authority, pharmaceutical companies pay a fee for certain new human drug applications, biologics license applications or supplements submitted to the agency for review. Because the submission of user fees concurrently with applications and supplements is required, review of an application cannot begin until the fee is submitted. Form FDA 3397 is the user fee cover sheet, which is designed to provide the minimum necessary information to determine whether a fee is required for review of an application, to determine the amount of the fee required, and to account for and track user fees. The form provides a cross-reference of the fee submitted for an application with the actual application by using a unique number tracking system. The information collected is used by FDA's Center for Drug Evaluation and Research (CDER) and Center for Biologics Evaluation and Research (CBER) to initiate the administrative screening of new drug applications, biologics license applications, and supplemental applications.

Respondents to this collection of information are new drug and biologics manufacturers. Based on FDA's data base system, there are an estimated 208 manufacturers of products subject to PDUFA. However, not all manufacturers will have any submissions in a given year and some may have multiple submissions. The total number of annual responses is based on the number of submissions received by FDA in fiscal year 1999. CDER estimates 2,478 annual responses that include the following: 125 new drug applications, 1,458 chemistry supplements, 755 labeling supplements, and 140 efficacy supplements. CBER estimates 443 annual responses that include the following: 8 biologics license applications, 396 manufacturing (chemistry) supplements, 29 labeling supplements and 10 efficacy supplements. The estimated hours per response are based on past FDA experience with the various submissions, and range from 5 to 30 minutes. The hours per response are based on the average of these estimates.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
FDA 3397	208	14.4	2,921	0.30	876

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

Dated: August 11, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–21011 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1246]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Food Safety Survey

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by September 18, 2000.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Safety Survey (OMB Control Number 0910–0345)—Extension

Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2)), FDA is authorized to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. FDA is planning to conduct a consumer survey about food safety under this authority. The food safety survey will provide information about consumers' food safety awareness, knowledge, concerns, and practices. A nationally representative sample of 2,000 adults in households with telephones and cooking facilities will be selected at random and interviewed by telephone. Participation will be voluntary. Detailed information will be obtained about risk perception, perceived sources of food contamination, knowledge of particular microorganisms, safe care label use, food handling practices, consumption of raw foods from animals, information sources, and perceived foodborne illness and food allergy experience.

Most of the questions to be asked are identical to ones asked in the 1998 Food Safety Survey. Because of recent national consumer education campaigns about food safety and the large amount of media attention to food safety issues

in the past few years, consumer attitudes, knowledge, and practices are likely to have changed greatly since the 1998 survey. FDA needs current information to support consumer education programs and regulatory development. In addition, FDA needs information from the consumer perspective on several new areas related to food safety. New areas include attitudes toward: Genetically modified foods, irradiated foods, and organically grown foods; handling of leftovers and foods associated with *listeria monocytogenes* contamination; washing practices for fresh fruits and vegetables; reaction to warning statements on unpasteurized juice and to handling statements on eggs; disability status; and perceived food allergy.

In the **Federal Register** of May 2, 2000 (65 FR 25491), the agency requested comments on the proposed collection of information. Four comments were received. All comments responded to the third statement on which FDA invited comments: Ways to enhance the quality, utility, and clarity of the information to be collected.

Two comments were related to the questions about irradiation of food, one from a consumer group, and the other from industry. One comment does not want the survey to imply that all irradiated food is required to be labeled. It states that FDA misleads consumers when it states or implies that irradiated foods are labeled, because irradiated foods intended for further processing or cooking are not labeled at the consumer level, and herbs, spices, and some seasonings are never labeled.

The second comment urges FDA to include additional questions to probe consumer attitudes on irradiation and the irradiation label, given the changes in this arena in the past few years. One example provided is approval and marketing of irradiated meat, and the positive media coverage of this process. It provides a specific question from the literature and points out that if we ask the same question, we would have a comparison over time. The question would follow the current question measuring perceived safety of irradiated foods. That specific question is this: ''Irradiation has been approved as safe by the U.S. Food and Drug Administration. How does this affect your opinion?'' (Answers: less concerned, same opinion, or more concerned.)

Both comments were concerned about the placement of the irradiation questions, immediately after a section on food safety problems and in a section of perceived sources of contamination. One states that such placement might lead consumers to think that FDA has doubts of the safety of irradiation. It recommends placing the irradiation questions in the section on cooking and other methods to control foodborne pathogens. Both comments asked that FDA publish or provide them with a final copy of the survey.

The agency is not persuaded that the comment about labeling of irradiated food is germane to the survey because none of the questions on the survey mention labeling of irradiated foods; the labeling aspect of the irradiation issue is beyond the scope of the survey.

The agency is not persuaded that the specifically recommended question is appropriate in the context of the current survey; such detailed attitude questions are beyond the scope of the data collection objectives. However, the comment requesting that additional questions be asked about irradiated foods raises the issue of whether FDA will obtain sufficient information from the current questions. Analysis of the current question will provide certain detailed information. For example, the distribution of characteristics and of information sources of those who have given beliefs about irradiated foods can be compared with the distributions of those with more or less food safety knowledge, as measured in other sections. The agency is exploring whether its information needs require further questions about consumers' prior knowledge and assumptions. Any additional questions will be determined in time to incorporate them into the final questionnaire, along with any other changes required by comments to this notice.

The agency agrees that the irradiated questions are better asked in a different section; they will be moved to follow Section K of the questionnaire entitled ''Information Sources''. The agency will provide a copy of the final survey to all interested parties who so request.

Another comment urges FDA to use the survey to address the issue of consumer misinformation regarding organic foods. The comment is concerned that Americans are misled by organic labels, and in particular will be misled by the United States Department of Agriculture (USDA) organic seal, to believe that organic foods are safer, more nutritious, or otherwise better in some way than conventional foods.

Testing of any specific label statements is outside the scope of the survey, and gathering specific information about the USDA seal for organic foods is inappropriate at this time, before the seal has been finalized. However, like the request for more information about consumer understanding of irradiated foods, this comment raises the issue of whether the agency will obtain sufficient information about consumers' knowledge and assumptions related to organic foods, and the agency has a similar response. FDA plans to perform analysis of the organic foods questions that will provide detailed information about certain aspects of consumer knowledge and information sources. In light of the comment, the agency is exploring whether its information needs require further questions about consumers' prior knowledge and assumptions, and any additional questions will be incorporated into the final questionnaire along with any other changes required by comments to the 30-day notice.

One comment is concerned about the list of foods that form the response to several questions, including the questions that ask what kinds of food the respondent thought were related to contamination by particular micro-organisms, and, in the 1998 survey, to the question on foods the respondent thinks of as high risk for food poisoning. The concern is that the inclusion of ''mayonnaise or salads made with mayonnaise'' will perpetuate the ''mayo myth'' that mayonnaise is a high risk food. The comment approves of the question about eating raw eggs that clearly distinguishes homemade mayonnaise from commercial mayonnaise.

FDA is very much aware that commercial mayonnaise is not a high food safety risk, and it is not treated as such in the survey. The comment mistakenly assumed that the precoded list of foods that follows several questions is read to the respondent, when it is not read. The list is seen only by the interviewers, who need it in order to code the response. ''Mayonnaise or salads made with mayonnaise'' is included as a possible response because some consumers maintain the view that this type of food is high risk. Over time, FDA will be able to track whether this myth is diminishing. Meanwhile, commercial mayonnaise will not be maligned in the survey. It is important to keep the item in the list so that consumer beliefs about commercial mayonnaise can be measured. As the comment notes, when mayonnaise is mentioned to respondents (as in the eating raw egg question), a distinction is made between homemade and commercial mayonnaise.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
2,000	1	2,000	.5	1,000

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

The burden estimate is based on FDA's experience with the 1998 survey mentioned in the previous paragraph.

Dated: August 11, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–21007 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00C–1444]

FEM, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that FEM, Inc., has filed a petition proposing that the color additive regulations be amended to eliminate the limitation on the amount of silver used as a color additive in fingernail polish.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3078.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 721(d)(1) (21 U.S.C. 379e(d)(1))), notice is given that a color additive petition (CAP 0C0272) has been filed by FEM, Inc., 1521 Laguna St. #210, Santa Barbara, CA 93101. The petition proposes to amend the color additive regulations in § 73.2500 *Silver* (21 CFR 73.2500) to eliminate the limitation on the amount of silver used as a color additive in fingernail polish.

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

Dated: August 1, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–21012 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93F–0360]

Cognis Corporation; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 3B4400) proposing that the food additive regulations be amended to provide for the safe use of pentaerythritol mixed esters of $C_{16–18}$ fatty acids as a dispersant for titanium dioxide in polyethylene, polypropylene, and polystyrene intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Vivian M. Gilliam, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3094.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 29, 1993 (58 FR 58172), FDA announced that a food additive petition (FAP 3B4400) had been filed by Henkel Corporation, 300 Brookside Ave., Ambler, PA 19002–3498. The petition proposed to amend the food additive regulations to provide for the safe use of pentaerythritol mixed esters of $C_{16–18}$ fatty acids as a dispersant for titanium dioxide in polyethylene, polypropylene, and polystyrene intended for contact with food. Henkel Corporation has since changed its name to Cognis Corporation. Cognis Corporation has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: August 1, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–21008 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–1193]

Troy Corporation; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 7B4533) proposing that the food additive regulations be amended to provide for the safe use of 3–iodo–2–propynyl butyl carbamate as a fungicidal additive for wood products intended to contact food.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 24, 1998 (63 FR 71295), FDA announced that a food additive petition (FAP 7B4533) had been filed by Troy Corporation, c/o S.L. Graham & Associates, 1801 Peachtree Lane, Bowie, MD 20721. The petition proposed to amend the food additive regulations in § 178.3800 *Preservatives for wood* (21 CFR 178.3800) to provide for the safe use of 3-iodo-2-propynyl butyl carbamate as a fungicidal additive for wood products intended to contact food. Troy Corporation has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: July 26, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–21057 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food and Drug Administration/Industry Exchange Conference and Workshop on Clinical Trial Requirements; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), Office of the Commissioner, Office of Regulatory Affairs, Center for Drug Evaluation and Research, Center for Biologic Evaluation and Research, and Center for Devices and Radiological Health, in cooperation with the Pharmaceutical Quality Institute (PQI) is announcing a conference entitled ''Clinical Trials 2000.'' The conference concerns FDA's requirements for the conduct of clinical trials in support of new drug applications, abbreviated new drug applications, biologics license applications, premarket approval applications, and 510(k) product marketing applications. The conference is targeted towards those individuals engaged in patient recruitment for clinical trials; and those conducting, recording, reporting, and overseeing clinical trials including clinical investigators, supporting medical staff, institutional review board members, testing laboratories, software developers, sponsors, monitors, and contract research organizations.

Date and Time: Thursday, October 5, 2000, 8:30 a.m. to 4:45 p.m. and Friday, October 6, 2000, 8:30 a.m. to 12 noon.

Location: Doubletree Hotel, 1750 Rockville Pike, Rockville, MD.

Contact:

For information regarding this notice, workshop content, and who should attend: Diann Shaffer, Food and Drug Administration, Baltimore District, 900 Madison Ave., Baltimore, MD 21201–2199, 410–962–3590, FAX 410–962–2219 or e-mail: dshaffer@ora.fda.gov.

For registration information: Satish K. Laroia, Registrar, PQI, 33 Aspen Circle, Edison, NJ 08820, 973–812–9033, FAX 732–549–7487. As an alternative, the registration form and agenda can also be obtained from the Internet at www.fda.gov/cder/calendar/meeting/Clintrials2000.

Registration: The full conference and workshop registration fee is $349, or $325 each for three or more from the same affiliation registering at the same time. The fee includes breakfast on both days, all refreshment breaks, and lunch on the first day, and conference materials. One-day registration is also available (see registration form for details). For registration forms and other registration details contact Satish K. Laroia (address above). As an alternative, the registration form and agenda can be obtained from the Internet at www.fda.gov/cder/calendar. Registration is due by September 25, 2000. Space is limited, therefore, interested parties are encouraged to register early. Limited onsite registration may be available. Please arrive early to ensure prompt registration. Persons needing hotel rooms at the Doubletree Hotel should call 301–468–1100 or 800–222–TREE and mention that they are attending the FDA/PQI workshop. A special rate is available until September 13, 2000, or until the room block is exhausted, whichever comes first.

If you need special accommodations due to a disability, please contact PQI at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The workshops are designed to help achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393) and discussed in the FDA Plan for Statutory Compliance, which include working more closely with stakeholders; maximizing the availability of, and clarifying information about the process for generating data for review and submissions; and ensuring access to needed scientific and technical expertise.

The workshops also are consistent with the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121), as outreach activities by Government agencies directed to small businesses.

The topics to be discussed include the following: (1) Overview and direction of FDA programs for regulating clinical research involving human drugs, biologics, and medical devices; (2) Anatomy of an FDA clinical investigator inspection; (3) What happens after an FDA inspection; (4) Clinical equipoise and recruitment for clinical trials; (5) Human subject protection; (6) Institutional review boards; (7) Special requirements for the Department of Health and Human Services funded studies; (8) Modification of FDA's Privacy Act systems notice; (9) Effective contract research organization-sponsor partnerships; (10) Industry perspective in case studies on contract research organization—sponsor partnerships; (11) Gene therapy products; (12) Cellular product studies; (13) Fraud within clinical trials; (14) Preparing for an FDA audit; (15) Computerized systems used in clinical trials; and (16) Providing regulatory submissions in electronic format.

Dated: August 11, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–21010 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records. The proposed system is titled ''Links of Social Security Administration (SSA) and Health Care Financing Administration (HCFA) Data (LOD), HHS/HCFA/OSP, 09–70–0069.'' HCFA proposes to establish a new system of records containing benefit information derived from Social Security Administration and HCFA records for samples of the United States population served by programs administered by both agencies.

The primary purpose of this system of records is to provide information that will be used to conduct research, perform policy analysis, and improve program management for populations served by both SSA and HCFA. Information in this system will support: research, evaluation, or epidemiological projects; special projects and activities performed within the agency or by a contractor or consultant; constituent requests made to a congressional representative; and litigation involving the agency.

We have provided background information about the proposed system in the ''Supplementary Information'' section below. Although the Privacy Act requires only that the ''routine use'' portion of the system be published for comment, HCFA invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: HCFA filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the

Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 4, 2000. To ensure that all parties have adequate time in which to comment, the new system of records, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the congress, whichever is later, unless HCFA receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), HCFA, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m.–3:00 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Dave Baugh, Office of Strategic Planning, HCFA, Room C3–19–07, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is 410–786–7716.

SUPPLEMENTARY INFORMATION:

I. Description of the New System of Records

Statutory and Regulatory Basis for System of Records

Under section 1875(a) of the Social Security Act, (the Act) [42 U.S.C. 1395ii(a) and section 1110 of the Social Security Act (42 U.S.C. 1310), HCFA and SSA programs are inextricably linked as they were created under Federal law. Eligibility for Medicare is based on meeting minimum standards for covered employment for Social Security. In particular, Medicare disability coverage is directly linked to SSA determinations of eligibility for income payments under the Social Security Disability Income program. Likewise, for most States, a person's Medicaid eligibility is determined by their eligibility for SSA's Supplemental Security Income (SSI) program. Because of the interrelationship between these SSA and HCFA programs, information on program beneficiaries is housed in both agencies. Some information, such as reason for disability (for disabled enrollees) is housed only in SSA files. Other information, such as utilization and expenditures for health care services, is housed only in HCFA files. Therefore, some of the research, evaluation, policy analysis and program management activities can only be conducted if data are linked from the two agencies. In summary, the purpose of this notice is to allow disclosure of the linked data in this system only where these data are required to meet the research objectives. Examples of current research objectives include:

(A) Evaluations of the impact of the Federal welfare reform law, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on program enrollment and spending in HCFA and SSA.

(B) Studies of utilization and spending in Medicare and Medicaid for disabled enrollees based on their reason for disability.

(C) Studies to improve the quality of care delivered to Medicare disabled beneficiaries.

(D) Studies to promote the efficiency and effectiveness of acute and long-term care services received by persons eligible for both Medicare and Medicaid (the dual eligibles) including the development of improved risk-adjusted payment methods for dual eligibles.

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

The system includes samples of the United States population served by HCFA and SSA programs and the following information for each: name, social security number, Medicaid identification number, health insurance claim number, eligibility for SSA and HCFA programs, and benefit record information.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose, which is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release LOD information that can be associated with an individual as provided for under ''Section III. Entities Who May Receive Disclosures Under Routine Use.'' Both identifiable and non-identifiable data may be disclosed under a routine use. Identifiable data includes individual records with LOD information and identifiers. Non-identifiable data includes individual records with LOD information and masked identifiers or LOD information with identifiers stripped out of the file.

Data may only be used under these routine uses for those projects approved in writing by both SSA and HCFA. We will only disclose the minimum personal data necessary to achieve the purpose of LOD. HCFA has the following policies and procedures concerning disclosures of information, which will be maintained in the system. In general, disclosure of information from the system of records will be approved only for the minimum information necessary to accomplish the purpose of the disclosure after HCFA:

(a) Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.*, used to conduct research, perform policy analysis, and improve program management for populations served by SSA and HCFA.

(b) Determines:

(1) That the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

(2) That the purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) That there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

(c) Requires the information recipient to:

(1) Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

(2) Remove or destroy at the earliest time all individually-identifiable information; and

(3) Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

(d) Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

Entities Who May Receive Disclosures Under Routine Use

The routine use disclosures in this system may occur only to the following four (4) categories of entities (*i.e.*, the entities, which can get identifiable data only if we apply the policies and procedures in Section II. B. above). In addition, our policy will be to prohibit release even of non-identifiable data, beyond the four listed categories, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the population is so small that individuals who are familiar with the population could, because of the small size, use this information to deduce the identity). Disclosures may be made:

1. To an individual or organization for research, evaluation, or epidemiological

projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

We contemplate disclosing information under this routine use only in situations in which HCFA may enter into a contract, grant or cooperative agreement with project directors, contractors, grantees, or awardees of cooperative agreements to assist in accomplishing activities relating to purposes for this system of records.

2. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which HCFA may enter into a contract or similar agreement with a contractor or consultant to assist in accomplishing activities relating to purposes for this system of records.

HCFA occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. HCFA must be able to give a contractor and/or consultant whatever information is necessary for the contractor and/or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor and/or consultant from using or disclosing the information for any purpose other than that described in the contract and to return or destroy all information at the completion of the contract.

3. To a member of Congress or to a congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

Beneficiaries sometimes request the help of a Member of congress in resolving some issue relating to a matter before HCFA. The Member of congress then writes HCFA, and HCFA must be able to give sufficient information to be responsive to the inquiry.

4. To the Department of Justice (DOJ), court or adjudicatory body when:

(a) The agency or any component thereof, or

(b) Any employee of the agency in his or her official capacity, or

(c) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

(d) The United States Government is a party to litigation or has an interest in such litigation, and by careful review, HCFA determines that the records are both relevant and necessary to the litigation.

Whenever HCFA is involved in litigation, or occasionally when another party is involved in litigation and HCFA's policies or operations could be affected by the outcome of the litigation, HCFA would be able to disclose information to the DOJ, court or adjudicatory body involved. A determination would be made in each instance that, under the circumstances involved, the purposes served by the use of the information in the particular litigation is compatible with a purpose for which HCFA collects the information.

IV. Safeguards

A. Authorized users: Personnel having access to the system have been trained in Privacy Act requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. Records are used in a designated work area or work station and the system location is attended at all times during working hours.

To ensure security of the data, the proper level of class user is assigned for each individual user. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- Database Administrator class owns the database objects, *e.g.,* tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects,
- Quality Control Administrator class has read and write access to key fields in the database;
- Quality Indicator Report Generator class has read-only access to all fields and tables;
- Policy Research class has query access to tables, but are not allowed to access confidential patient identification information; and
- Submitter class has read and write access to database objects, but no database administration privileges.

B. Physical Safeguards: All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the LOD data:

Access to different areas on the Windows NT server is maintained through the use of file, directory and share level permissions. These different levels of access control provide security that is managed at the user and group level within the NT domain. The file and directory level access controls rely on the presence of an NT File System (NTFS) hard drive partition. This provides the most robust security and is tied directly to the file system. Windows NT security is applied at both the workstation and NT server levels.

C. Procedural Safeguards: All automated systems must comply with Federal laws, guidance, and policies for information systems security. These include, but are not limited to: the Privacy Act of 1974; the Computer Security Act of 1987; OMB Circular A–130, revised; HHS, Information Resource Management (IRM) Circular #10; HHS Automated Information Systems Security Program; the HCFA Information Systems Security Policy and Program Handbook, and other HCFA systems security policies. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effect of the Proposed System of Records on Individual Rights

HCFA proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

HCFA will monitor the collection and reporting of LOD data. LOD information on all projects is completed and submitted to HCFA through standard systems located at the HCFA Data Center. HCFA will utilize a variety of onsite and offsite edits and audits to increase the accuracy of LOD data.

HCFA will take precautionary measures (see item IV. above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. HCFA will collect only that information necessary to perform the system's functions. In addition, HCFA will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

HCFA, therefore, does not anticipate an unfavorable effect on individual

privacy as a result of the disclosure of information relating to individuals.

Dated: August 4, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

09–70–0069

SYSTEM NAME:

''Links of Social Security Administration (SSA) and Health Care Financing Administration (HCFA) Data (LOD), HHS/HCFA/OSP, 09–70–0069.''

SECURITY CLASSIFICATION:

Level 3, Privacy Act Sensitive Data

SYSTEM LOCATION:

HCFA Data Center, 7500 Security Boulevard, North Building, First Floor, and Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Samples of the United States population served by programs administered by HCFA and SSA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes the following information for each: name, social security number, Medicaid identification number, health insurance claim number, eligibility for SSA and HCFA programs, and benefit record information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1875(a) of the Social Security Act [42 U.S.C. 1395ii(a)] and section 1110 of the Social Security Act [42 U.S.C. 1310].

PURPOSE (S) OF THE SYSTEM:

The primary purpose of this system of records is to provide information that will be used to conduct research, perform policy analysis, and improve program management for populations served by both SSA and HCFA. Information in this system will support research, evaluation, or epidemiological projects; special projects and activities performed within the agency or by a contractor or consultant; support constituent requests made to a congressional representative; and support litigation involving the agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose, which is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine use in this system meets the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information, which will be maintained in the system:

1. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

2. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

3. To a member of congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

4. To the Department of Justice (DOJ), court or adjudicatory body when:

(a) The agency or any component thereof, or

(b) Any employee of the agency in his or her official capacity, or

(c) Any employee of the agency in his or her individual capacity where the DOJ has

(d) Agreed to represent the employee, or the United States Government is,

a party to litigation or has an interest in such litigation, and by careful review, HCFA determines that the records are both relevant and necessary to the litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer diskette and on magnetic storage media.

RETRIEVABILITY:

Information can be retrieved by the social security number, Medicaid identification number, health insurance claim number and by name.

SAFEGUARDS:

HCFA has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, HCFA has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the LOD system. For computerized records, safeguards have been established in accordance with HHS standards and National Institute of Standards and Technology guidelines, e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular #10, Automated Information Systems Security Program; HCFA Automated Information Systems (AIS) Guide, Systems Securities Policies, and OMB Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

Records are maintained in a secure storage area with identifiers. Records will be retained for 15 years.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Strategic Planning, HCFA, Room C3–20–11, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is 410–786–7932.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, Medicaid identification number, health insurance claim number, address, date of birth, sex, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and social security number (SSN). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system include data collected from SSA systems of records, *e.g.*, Supplemental Security Record (09–60–0103), Master Beneficiary Record (09–60–0090), Disability Determination Files (09–60–0044), and Social Security Account Number Identification File (09–60–0058) and HCFA systems of records, *e.g.*, Medicaid Statistical Information System (09–70–6001), Current Beneficiary Survey (09–70–6002), Common Working Files (09–70–0526), National Claims History Files (09–70–0005) and Enrollment Data Base (09–70–0502).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 00–21060 Filed 8–17–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, ''Medicare Provider Analysis and Review (MEDPAR), HHS/HCFA/OIS, 09–70–0009.'' The MEDPAR will contain a summary of all services rendered to a Medicare beneficiary, from the time of admission through discharge, for a stay in an inpatient hospital and/or skilled nursing facility (SNF), Supplemental Security Income (SSI) eligibility information which HCFA receives from the Social Security Administration on Medicare beneficiaries who have had stays at inpatient hospitals and SNF, and enrollment data on Medicare beneficiaries.

The primary purpose of the system of records is to collect and maintain information for all services rendered during a stay at an inpatient hospital and/or SNF of Medicare beneficiaries, so as to enable HCFA and its contractors to facilitate research on the quality and effectiveness of care provided, update annual hospital Prospective Payment System (PPS) rates, and to recalculate Supplemental Security Income (SSI) ratios for hospitals that are paid under the PPS and serve a disproportionate share of low-income patients may be entitled to increased reimbursement under Part A of the Medicare program. Information retrieved from this system of records will also be disclosed to: support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant, provide system data to a hospital that has an appeal properly pending before the Provider Reimbursement Review Board (PRRB), or before an intermediary, assist another federal or state agency with information to enable such agency to administer a federal health benefits program, or to enable such agency to fulfill a requirement of a federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds, support constituent requests made to a congressional representative, support litigation involving the agency, facilitate research on the quality and effectiveness of care provided, and, combat fraud and abuse in certain health benefits programs. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that HCFA provide an opportunity for interested persons to comment on the proposed routine uses, HCFA invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: HCFA filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 14, 2000. To ensure that all parties have adequate time in which to comment, the new system of records, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the congress, whichever is later, unless HCFA receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), HCFA, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Anne Rudolph, Division of Acute Care, Plan and Providers Purchasing Policy Group (PPPPG), Center for Health Plans and Providers (CHPP), HCFA, Room C4–07–07, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–4546.

SUPPLEMENTARY INFORMATION:

I. Description of the Proposed System of Records

A. Statutory and Regulatory Basis For System of Records

Authority for maintainance of this system is given under sections 1102(a), 1871, and 1886(d)(5)(F) of the Social Security Act, (Title 42 United States Code (USC) sections 1302(a), 1395hh, and 1395ww(d)(5)(F)). Under section 1886 (d)(5)(F)(vi)(I) of the Social Security Act (the Act), 42 USC 1395ww (d)(5)(F)(vi)(I), hospitals that are paid under the PPS and serve a disproportionate share of low-income patients may be entitled to increased reimbursement under Part A of the Medicare program. Such disproportionate share hospital payments, which became effective for discharges occurring on or after May 1, 1986, depend in part on a hospital's ''SSI ratio.'' HCFA determines a hospital's SSI ratio by comparing, for the same period, (1) the hospital's total number of its Medicare inpatient days to (2) the hospital's ''Medicare/SSI days,'' *i.e.,* inpatient days attributable to Medicare patients who for such days were eligible for SSI payments under Title XVI of the Act. In determining a hospital's SSI ratio, HCFA uses information from the National Claims History (NCH), (HHS/HCFA/OIS 09–70–0005), in conjunction with SSI eligibility information that HCFA receives from the Social Security Administration. HCFA notifies each hospital of the total number of its Medicare/SSI days for a given federal fiscal year, or cost reporting period, but does not identify which of the hospital's Medicare patients had Medicare/SSI days.

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

The MEDPAR contains information necessary for appropriate Medicare claim processing. It contains the Medicare health insurance claim (HIC) number, sex, race, age (no date of birth), zip code, state and county for Medicare beneficiaries who have received inpatient hospital and SNF services.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

We are establishing the following policies, procedures and restrictions on routine use disclosures of information that will be maintained in the system. In general, routine uses of this system (or a subset thereof) will be approved for the minimum set of data elements in the record needed to accomplish the purpose of the disclosure only after HCFA:

(a) Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.,* developing and refining payment systems and monitoring the quality of care provided to patients.

(b) Determines:

(1) That the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

(2) That the purpose for which the disclosure is to be made is of sufficient importance to warrant the potential effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) That there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

(c) Requires the information recipient to:

(1) Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record; and

(2) Remove or destroy at the earliest time all patient-identifiable information.

(d) Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which HCFA may enter into a contractual or similar agreement with a third party to assist in accomplishing HCFA function relating to purposes for this system of records.

HCFA occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. HCFA must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To a hospital that has an appeal properly pending before the Provider Reimbursement Review Board (PRRB), or before an intermediary, on the issue of whether it is entitled to disproportionate share hospital payments, or the amount of such payments. As a condition of disclosure under this routine use, HCFA will require the recipient of the information to:

(a) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized access, use or disclosure of the record or any part thereof. The physical safeguards must provide a level of security that is at least the equivalent to the level of security contemplated in OMB Circular A–130 (Revised), Appendix III, Security of Federal Automated Information Systems, which sets forth guidelines for security plans for automated information systems in Federal agencies.

(b) Remove or destroy the information that allows the subject individual(s) to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the request;

(c) Refrain from using or disclosing the information for any purpose other than the stated purpose under which the information was disclosed; and

(d) Attest in writing that it understands the foregoing provisions, and is willing to abide by the foregoing provisions and any additional provisions that HCFA deems appropriate in the particular circumstances.

Disclosure under this routine use shall be for the purpose of assisting the hospital to verify or challenge HCFA's determination of the hospital's SSI ratio (*i.e.,* the total number of Medicare days compared to the number of Medicare/SSI days), and shall be limited to data concerning the SSI eligibility status of individuals who had stays at the inpatient hospital's facility during the period that is relevant to the appeal. The proposed routine use would permit disclosure only to a hospital that has a proper appeal pending before the PRRB or before an intermediary.

3. To another federal or state agency:

(a) To contribute to the accuracy of HCFA's proper payment of Medicare benefits, and/or

(b) To enable such agency to administer a federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds.

Other federal or state agencies in their administration of a federal health program may require MEDPAR information in order to support evaluations and monitoring of Medicare claims information of beneficiaries who have had stays at inpatient hospitals and SNF, including proper reimbursement for services provided.

4. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

The MEDPAR data will provide the research, evaluation and epidemiological projects a broader, longitudinal, national perspective of the MEDPAR and inpatient data. HCFA anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare patients and the policy that governs the care. HCFA understands the concerns about the privacy and confidentiality of the release of data for a research use. Disclosure of MEDPAR data for research and evaluation purposes will usually involve aggregate data rather than individual-specific data.

5. To a member of congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries sometimes request the help of a member of congress in resolving an issue relating to a matter before HCFA. The member of congress then writes HCFA, and HCFA must be able to give sufficient information to be responsive to the inquiry.

6. To the Department of Justice (DOJ), court or adjudicatory body when:

(a) the agency or any component thereof, or

(b) Any employee of the agency in his or her official capacity, or

(c) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

(d) The United States Government is a party to litigation or has an interest in such litigation, and by careful review, HCFA determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever HCFA is involved in litigation, and occasionally when another party is involved in litigation and HCFA's policies or operations could be affected by the outcome of the litigation, HCFA would be able to disclose information to the DOJ, court or adjudicatory body involved.

7. To a HCFA contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a HCFA-administered health benefits program, or to a grantee of a HCFA-administered grant program, when disclosure is deemed reasonably necessary by HCFA to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which HCFA may enter into a contractual relationship or grant with a third party to assist in accomplishing HCFA functions relating to the purpose of combating fraud and abuse.

HCFA occasionally contracts out certain of its functions and makes grants when doing so would contribute to effective and efficient operations. HCFA must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

8. To another federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by federal funds, when disclosure is deemed reasonably necessary by HCFA to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require MEDPAR information for the purpose of combating fraud and abuse in such Federally funded programs.

IV. Safeguards

A. Authorized Users

Personnel having access to the system have been trained in Privacy Act requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. Records are used in a designated work area and system location is attended at all times during working hours.

To ensure security of the data, the proper level of class user is assigned for each individual user level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- Database Administrator class owns the database objects, (*e.g.*, tables, triggers, indexes, stored procedures, packages) and has database administration privileges to these objects.
- Quality Control Administrator class has read and write access to key fields in the database;
- Quality Indicator Report Generator class has read-only access to all fields and tables;
- Policy Research class has query access to tables, but is not allowed to access confidential patient identification information; and
- Submitter class has read and write access to database objects, but no database administration privileges.

B. Physical Safeguards

All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the MEDPAR system:

Access to all servers is controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server requires a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination which grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information Systems (AIS) resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

- *User Log-ons*—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.
- *Workstation Names*—Workstation naming conventions may be defined and implemented at the agency level.
- *Hours of Operation*—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the agency level.
- *Inactivity Log-out*—Access to the NT workstation is automatically logged out after a specified period of inactivity.
- *Warnings*—Legal notices and security warnings display on all servers and workstations.
- *Remote Access Services (RAS)*—Windows NT RAS security handles resource access control. Access to NT resources is controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

There are several levels of security found in the MEDPAR system. Windows NT provides much of the overall system security. The Windows NT security model is designed to meet the C2-level criteria as defined by the U.S. Department of Defense's Trusted Computer System Evaluation Criteria document (DoD 5200.28–STD, December 1985). Netscape Enterprise Server is the security mechanism for all MEDPAR transmission connections to the system. As a result, Netscape controls all MEDPAR information access requests. Anti-virus software is applied at both the workstation and NT server levels.

Access to different areas on the Windows NT server is maintained through the use of file, directory and

share level permissions. These different levels of access control provide security that is managed at the user and group level within the NT domain. The file and directory level access controls rely on the presence of an NT File System (NTFS) hard drive partition. This provides the most robust security and is tied directly to the file system. Windows NT security is applied at both the workstation and NT server levels.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and policies for information systems security. These include, but are not limited to: the Privacy Act of 1974, the Computer Security Act of 1987, OMB Circular A–130, revised, Information Resource Management (IRM) Circular #10, HHS Automated Information Systems Security Program; the HCFA Information Systems Security Policy and Program Handbook, and other HCFA systems security policies. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effects of the Proposed System of Records on Individual Rights

HCFA proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

HCFA will take precautionary measures (see item IV. above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. HCFA will collect only that information necessary to perform the system's functions. In addition, HCFA will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. HCFA, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: August 10, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

09–70–0009

SYSTEM NAME:

''Medicare Provider Analysis and Review (MEDPAR) HHS/HCFA/OIS.''

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

HCFA Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered by this system are Medicare beneficiaries who have had stays in inpatient hospitals and skilled nursing facilities (SNF).

CATEGORIES OF RECORDS IN THE SYSTEM:

The MEDPAR will contain claims and demographic information on Medicare beneficiaries who have had stays in inpatient hospitals and SNF, Supplemental Security Income (SSI) eligibility information which HCFA receives from the Social Security Administration on Medicare beneficiaries who have had stays at inpatient hospitals and SNF, and enrollment data on Medicare beneficiaries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1102(a), 1871, and 1886(d)(5)(F) of the Social Security Act, (42 U.S.C. §§ 1302(a), 1395hh, and 1395ww(d)(5)(F)).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the system of records is to collect and maintain information for all services rendered during a stay at an inpatient hospital and/or SNF of Medicare beneficiaries, so as to enable HCFA and its contractors to facilitate research on the quality and effectiveness of care provided, update annual hospital Prospective Payment System (PPS) rates, and to recalculate SSI ratios for hospitals that are paid under the PPS and serve a disproportionate share of low-income patients may be entitled to increased reimbursement under Part A of the Medicare program. Information retrieved from this system of records will also be disclosed to: support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant, provide system data to a hospital that has an appeal properly pending before the Provider Reimbursement Review Board (PRRB), or before an intermediary, assist another federal or state agency with information to enable such agency to administer a federal health benefits program, or to enable such agency to fulfill a requirement of a federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds, support constituent requests made to a congressional representative, support litigation involving the agency, facilitate research on the quality and effectiveness of care provided, and, combat fraud and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

2. To a hospital that has an appeal properly pending before the Provider Reimbursement Review Board (PRRB), or before an intermediary, on the issue of whether it is entitled to disproportionate share hospital payments, or the amount of such payments. As a condition of disclosure under this routine use, HCFA will require the recipient of the information to:

(a) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized access, use or disclosure of the record or any part thereof. The physical safeguards must provide a level of security that is at least the equivalent to the level of security contemplated in OMB Circular A–130 (Revised), Appendix III, Security of Federal Automated Information Systems, which sets forth guidelines for security plans for automated information systems in federal agencies.

(b) Remove or destroy the information that allows the subject individual(s) to be identified at the earliest time at which removal or destruction can be

accomplished consistent with the purpose of the request;

(c) Refrain from using or disclosing the information for any purpose other than the stated purpose under which the information was disclosed; and

(d) Attest in writing that it understands the foregoing provisions, and is willing to abide by the foregoing provisions and any additional provisions that HCFA deems appropriate in the particular circumstances.

3. To another federal or state agency:

(a) To contribute to the accuracy of HCFA's proper payment of Medicare benefits, and/or

(b) To enable such agency to administer a federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds.

4. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

5. To a member of congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

6. To the Department of Justice (DOJ), court or adjudicatory body when:

(a) The agency or any component thereof, or

(b) Any employee of the agency in his or her official capacity, or

(c) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

(d) The United States Government is a party to litigation or has an interest in such litigation, and by careful review, HCFA determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

7. To a HCFA contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a HCFA-administered health benefits program, or to a grantee of a HCFA-administered grant program, when disclosure is deemed reasonably necessary by HCFA to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

8. To another federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by federal funds, when disclosure is deemed reasonably necessary by HCFA to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

The Medicare records are retrieved by health insurance claim (HIC) number of the beneficiary.

SAFEGUARDS:

HCFA has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, HCFA has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the MEDPAR system. For computerized records, safeguards have been established in accordance with HHS standards and National Institute of Standards and Technology guidelines, *e.g.*, security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular #10, Automated Information Systems Security Program; HCFA Automated Information Systems (AIS) Guide, Systems Securities Policies, and OMB Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

HCFA and the repository of the National Archive and Records Administration will retain identifiable MEDPAR data for a total period not to exceed 25 years.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Enrollment, Utilization, and Data Development, Enterprise Databases Group, Office of Information Services, HCFA, Room N3–16–28, 7500 Security Boulevard, Baltimore, Maryland, 21244–1850. The telephone number is (410)–786–6759.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, HIC, address, age, sex, and for verification purposes, the subject individual's name (woman's maiden name, if applicable) and social security number (SSN). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

HCFA's National Claims History system of records, enrollment data on Medicare beneficiaries, and SSI eligibility information from the Social Security Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 00–21095 Filed 8–17–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Report of Altered Systems of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter designated HCFA systems of records specified in Appendix A. We are revising the language in global fraud and abuse routine uses number one and two to correspond with language used in other HCFA systems of records. We are also deleting global fraud and abuse routine use number three relating to ''any entity that makes payments for or oversees the administration of health care services. * * *'' Notice of these revised global routine uses was published in the **Federal Register**, Thursday, July 16, 1998 (63 FR 38414).

The primary purpose of revising the language in the two remaining global fraud and abuse routine uses is to shorten the language, make them easier to read, and provide clarity to HCFA intentions to disclose individual-specific information for the purposes of combating fraud and abuse to a HCFA contractor that assists in the administration of a HCFA-administered health benefits program, to a grantee of a HCFA-administered grant program, and to other federal agencies or to an instrumentality of any governmental jurisdiction, that administers, or that has the authority to investigate potential fraud or abuse in a health benefits program funded in whole or in part by federal funds.

The revised routine uses will be added to the systems listed in Appendix A at the earliest time that modification and republication of these systems can occur. The routine uses will be numbered in the next logical sequence for each system and will read as follows: (1) To a HCFA contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a HCFA-administered health benefits program, or to a grantee of a HCFA-administered grant program, when disclosure is deemed reasonably necessary by HCFA to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program; and, (2) to another federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by federal funds, when disclosure is deemed reasonably necessary by HCFA to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program, subjected to certain conditions. We have provided background information about the altered system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that HCFA provide an opportunity for interested persons to comment on the proposed routine uses, HCFA invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: HCFA filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 14, 2000. To ensure that all parties have adequate time in which to comment, the modified or altered system of records, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless HCFA receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), HCFA, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Howard Cohen, Division of Methods and Strategies, Program Integrity Group, Office of Financial Management, HCFA, Mailstop C3–02–16, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is 410–786–9537.

SUPPLEMENTARY INFORMATION: In 1998, HCFA informed the public of its intent to add three new routine uses to designated HCFA systems of records, under which HCFA may release information without the consent of the individual to whom such information pertains in order to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud and abuse in programs HCFA administers.

Dated: August 10, 2000.

Nancy Ann Min DeParle,

Administrator, Health Care Financing Administration.

Appendix A

09–70–0005 ''National Claims History (NCH),'' HHS/HCFA/OIS;
09–70–0040 ''Health Care Financing Administration Medicare Heart Transplant Data File,'' HHS/HCFA/OIS;
09–70–0501 ''Carrier Medicare Claims Records,'' HHS/HCFA;
09–70–0503 ''Intermediary Medicare Claims Records,'' HHS/HCFA;
09–70–0505 ''Supplemental Medical Insurance (SMI)Accounting Collection and Enrollment System (SPACE),'' HHS/HCFA;
09–70–0516 ''Medicare Physician Supplier Master File (MPSM),'' HHS/HCFA;
09–70–0518 ''Medicare Clinic Physician Supplier Master File (MCPS),'' HHS/HCFA;
09–70–0520 ''End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS),'' HHS/HCFA/OIS;
09–70–0524 ''Intern and Resident Information System (IRIS),'' HHS/HCFA/OFM;
09–70–0525 ''Medicare Physician Identification and Eligibility System (MPIES),'' HHS/HCFA/OFM;
09–70–0526 ''Common Working File (CWF),'' HHS/HCFA/OIS;
09–70–0527 ''HCFA Utilization Review Investigatory Files (HURI),'' HHS/HCFA;
09–70–0530 ''Medicare Supplier Identification File (MSIF),'' HHS/HCFA/OFM;
09–70–1511 ''Physical Therapists In Independent Practice (Individuals) (PTIP),'' HHS/HCFA/OCSQ;
09–70–2003 ''Completion of State Medicaid Quality Control (MQC) Reviews,'' HHS/HCFA/MB
09–70–2006 ''Income and Eligibility Verification for Medicaid Eligibility Quality Control (MEQC) Reviews,'' HHS/HCFA/MB
09–70–4001 ''Group Health Plan (GHP) System,'' HHS/HCFA;
09–70–4003 ''Medicare HMO/CMP Beneficiary Reconsideration System (MBRS),'' HHS/HCFA;
09–70–6001 ''Medicaid Statistical Information System (MSIS),'' HHS/HCFA/OIS.

[FR Doc. 00–21096 Filed 8–17–00; 8:45 am]

BILLING CODE 4120–03–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement for opportunity for public comment on

proposed data collection projects (section 3506(c) (2) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques of other forms of information technology.

Proposed Project: The Nursing Education Loan Repayment Program Application (OMB No. 0915–0140)—Extension

This is a request for extension of the application form for the Nursing Education Loan Repayment Program (NELRP). The NELRP was originally authorized by 42 USC 297b(h) (section 836 (h) of the Public Health Service Act) as amended by Public Law 100–607, November 4, 1988. The NELRP is currently authorized by 42 USC 297(n) (section 846 of the Public Health Service Act) as amended by Public Law 102–408, October 13, 1992.

Under the NELRP, registered nurses are offered the opportunity to enter into a contractual agreement with the Secretary, under which the Public Health Service agrees to repay the nurses' indebtedness for nursing education. In exchange, the nurses agree to serve for a specified period of time in certain types of health facilities identified in the statute.

Nurse educational loan repayment contracts will be approved by the Secretary for eligible nurses who have incurred previous monetary indebtedness by accepting a loan for nursing education costs from a bank, credit union, savings and loan association, Government agency or program, school, or other lender that meets NELRP criteria.

Approval is requested for the application form. The application form requires information from two types of respondents:

a. Applicants must provide information on the proposed service site and on all nursing education loans for which reimbursement is requested, and

b. For those applicants accepted into the NELRP, lenders must provide information on loan status for all loans accepted for repayment.

Estimates of Annualized Hour Burden: The application form is not being changed, therefore it will not have significant impact on the time required to complete the form. Burden estimates are as follows:

Form/regulatory requirement	Number of respondents	Responses per respondents	Hours per response	Total burden hours
NELRP Application	1,000	1	1.5	1,500
Loan Verification Form	[1] 200	1	2.5	500
Total	1,200	.....	.....	2.000

[1] The remainder of the loans are verified through credit reports.

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Written comments should be received within 60 days of this notice.

Dated: August 11, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–21059 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The Health Education Assistance Loan (HEAL) Program Information Collection Requirements—Forms—(OMB No. 0915–0043)

Extension—This clearance request is for extension of approval for three HEAL forms: the HEAL Repayment Schedule—Fixed Rate and the HEAL Repayment Schedule—Variable Rate (provides the borrower with the cost of a HEAL loan, the number and amount of the payments, and the Truth-in-Lending disclosures); the Lender's Report on HEAL Student Loans Outstanding, Call Report (provides information on the status of loans outstanding by the number of borrowers whose loan payments are in various stages of the loan cycle, such as student education and repayment, and the corresponding dollar amounts). These forms are needed to provide borrowers with information on the cost of their loan(s) and to determine which lenders may have excessive delinquencies and defaulted loans.

The estimate of burden for the forms are as follows:

Form and number	Number of respondents	Responses per respondent	Total responses	Hours per responses	Total burden hours
Disclosure: Repayment Schedule HRSA 502–1,2	15	800	12,000	.5	6000
Reporting: Call Report, HRSA 512	22	4	88	.75	66
Total Reporting and Disclosure	22	.....	12,088	.....	6,066

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 11, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–21058 Filed 8–17–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–33]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: August 18, 2000.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: August 10, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

[FR Doc. 00–20697 Filed 8–17–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of Acquisition and Property Management

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of Acquisition and Property Management (PAM), Office of the Secretary, Interior.

ACTION: Notice of planned request for extension/revision of a currently approved information collection (OMB Control Number 1006–0009) and request for comment.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, PAM invites the public and other Federal agencies to comment on a proposal to extend and revise the currently approved collection of information discussed below for a survey of the private sector housing rental market using forms entitled Private Rental Survey. We intend to submit this collection of information to the Office of Management and Budget (OMB) for approval. The Paperwork Reduction Act of 1995 (PRA) provides that 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.

DATES: Submit written comments by October 17, 2000.

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Office of Acquisition and Property Management; Attention: Linda Tribby; Mail Stop 5512; 1849 C Street, NW, Washington, DC 20240. Comments may also be submitted electronically to *linda__tribby@ios.doi.gov.* Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish 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.

FOR FURTHER INFORMATION CONTACT: Linda Tribby, Departmental Quarters Program Manager, telephone (202) 219–0728.

SUPPLEMENTAL INFORMATION:

Title: Private Rental Survey.

OMB Control Number: 1084–NEW (replaces OMB No. 1006–0009).

Bureau Form Number: OS–2000 and OS–2001 (replace Bureau of Reclamation Forms 7–2226 and 7–2227).

Abstract: Public Law 88–459 authorizes Federal agencies to provide housing for Government employees under specified circumstances. In compliance with OMB Circular A–45 (Revised), Rental and Construction of Government Quarters, a review of private rental market housing rates is required at least once every 5 years to ensure that the rental, utility charges, and charges for related services to occupants of Government Furnished Quarters (GFQ) are comparable to corresponding charges in the private sector. To avoid unnecessary duplication and inconsistent rental rates, PAM conducts housing surveys in support of quarters management programs for the Departments of the Interior (DOI), Agriculture, Commerce, Defense, Justice, Transportation, Treasury, Health and Human Services, and Veterans Affairs. DOI's Bureau of Reclamation previously performed these

information collections under the currently approved OMB Control No. 1006–0009. This collection of information provides data that helps DOI as well as other Federal agencies to manage GFQ in compliance with the requirements of OMB Circular A–45 (Revised). If the collection activity were not performed, there would be no basis for determining open market rental costs for GFQ.

Frequency of Collection: Each of 14 regions is surveyed every third year; this equates to four to five regions surveyed each year.

Description of Respondents: Individual property owners and small businesses or organizations (real estate managers, appraisers, or property managers).

Estimated Annual Responses: 3,500.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 688 hours. There are no recordkeeping requirements.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'' Burden: None.

Comments: We will summarize written responses to this notice and address them in our submission for OMB approval. We specifically solicit your comments on the following questions:

(a) Is the proposed collection of information necessary for us to properly perform our functions, and will it be useful?

(b) Is the estimate of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

PAM Information Collection Clearance Officer: Debra E. Sonderman, (202) 208–6352.

Dated: August 14, 2000.

Debra E. Sonderman,

Director, Office of Acquisition and Property Management.

[FR Doc. 00–21093 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–RF–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Maine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations [50 CFR 18.27(f)(3), notice is hereby given that a Letter of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities has been issued to the following company.

Company	Activity	Date issued
BP Exploration	Environmental Monitoring	July 5, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: Letters of Authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations ''Marine Mammals; Incidental Take During Specified Activities (65 FR 16828; March 30, 2000'').

Dated: August 3, 2000.

E. LaVerne Smith,

Acting Regional Director.

[FR Doc. 00–20852 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Sport Fishing and Boating Partnership Council; Notice of Meeting

SUMMARY: As provided in section 10(a)(2) of the Federal Advisory Committee Act, the Fish and Wildlife Service announces a meeting designed to foster partnerships to enhance public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating in the United States. This meeting, sponsored by the Sport Fishing and Boating Partnership Council (Council), is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: The public meeting will be held on Thursday, September 14, 2000, 1:30 to 4:30 p.m.

ADDRESSES: The meeting will be held at the Hyatt Regency Indianapolis, One South Capitol, Regency Ballroom D, Second Level, Indianapolis, IN 46204, Telephone (317) 632–1234.

Summary minutes of the conference will be maintained by the Council Coordinator at 4040 N. Fairfax Dr., Room 132A, Arlington, VA 22203, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Laury Parramore, Council Coordinator, at (703) 358–1711.

SUPPLEMENTARY INFORMATION: The Sport Fishing and Boating Partnership Council was formed in January 1993 to advise the Secretary of the Interior through the Director of the Fish and Wildlife Service about sport fishing and boating issues. The Council represents the interests of the public and private sectors of the sport fishing and boating communities and is organized to enhance partnerships among industry, constituency groups and government. The 18-member Council includes the Director of the Service and the President of the International Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are directors from State agencies responsible for managing recreational fish and wildlife resources, and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, aquatic resource outreach and education, and tourism. The Sport Fishing and Boating Partnership Council (Council) will convene to discuss:

(1) The final draft of a report containing recommendations for improving the National Fish Hatchery System. The report was requested by the Director of the Fish and Wildlife Service and is being written by the Hatchery

Project Steering Committee, a subgroup of the Council's Technical Working Group;

(2) The Council's work in its role as a facilitator of discussions with Federal and State agencies and other sportfishing and boating interests concerning a variety of national boating and fisheries management issues;

(3) The Council's role in providing the Secretary of the Interior with information about the implementation of the Strategic Plan for the National Outreach and Communications Program. The Secretary approved the plan in February 1999, and the 5-year, $36-million federally funded outreach campaign authorized by the 1998 Sportfishing and Boating Safety Act is now being implemented by the Recreational Boating and Fishing Foundation, a private, nonprofit organization.

Dated: August 11, 2000.

Jamie Rappaport Clark,

Director.

[FR Doc. 00–21051 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–01–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0132

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of an existing approval to collect certain information from entities interested in the development of geothermal steam resources on lands managed by BLM. The information to be collected concerns data submitted by geothermal lessees and operators issues for agency approval of specific or additional operations on a well and to report the completion or progress of the additional work. This information allows BLM to approve proposed operations and ensure compliance with granted approvals.

DATES: Comments on the proposed information collection must be received by October 17, 2000.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street NW, Room 104LS, Washington, D.C. 20240.

Comments may be sent via Internet to: WOComment@blm.gov. Please include ''ATTN: 1004–0132'' and your name and return address in your internet message.

You may hand-deliver comments to the Bureau of Land Management, Administrative Board, Room 401, 1620 L Street, NW., Washington, D.C.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluids Minerals Group, (202) 452–0338.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in 43 CFR Part 3260 to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validly of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq.*

The Geothermal Steam Act of 1970 authorizes the Secretary of the Interior to issue leases and prescribe regulations so that geothermal resources on certain Federal may be developed and used. Tribal lands may also be involved under the Indian Mineral Development Act. The Bureau of Land Management supervises operations of the leases granted under this authority by the regulations set forth in 43 CFR Part 3260. The regulations contain information collection requirements that are needed to grant the lessees permit to perform specific operations and to report the completion and progress of such work. Specifically, the regulations requires operators to submit a Geothermal Drilling Permit (Form 3260–2); a Geothermal Sundry Notice (Form 3260–3); a Geothermal Well Completion Report (Form 3260–4); and a Monthly Report of Geothermal Operations (Form 3260–5).

All data is mailed or delivered to BLM by the lessee of record, a designated operator, or an approved agent acting in behalf of the lessee or operator. The data pertains to conducting or modifying operations under the terms and provisions of a Federal geothermal lease or an Indian geothermal contract. The information enables BLM to approve any geothermal exploration or modifications to existing wells.

While some of the identification elements requested on these forms are common, for example, well location, unit agreement name, etc., they are needed on each form to avoid confusions and to eliminate the likelihood of one well being mistaken for another. Restructuring these elements to a coded alphanaumeric system would interject an additional layer of complexity without saving time or reducing burden.

Form 3260–2, Geothermal Drilling Permit

This is a permit to drill, redrill, deepen or plug back a well on Federal lands. It provides a basis for evaluating the proposed well's feasibility and determining whether the application should be disapproved or approved; and, if approved, whether any special conditions of approval should be made part of the permit. Without the information, there would be no assurance that drilling and associated activities, when and if authorized, are technically and environmentally feasible and ensure proper conservation of the resources.

Form 3260–3, Geothermal Sundry Notice

The sundry notice is required for planned well work or change of plans previously approved, road site and facilities construction and miscellaneous activities related to other previously approved operations. A subsequent report of the work performed must also be filed. Without this information, BLM cannot adequately evaluate the feasibility and environmental impacts of the proposed activity.

Form 3260–4, Geothermal Well Completion Report

The well completion report is used to obtain information on a complete and accurate log and history, in chronological order, of all operations conducted on the well. The logs are kept by lessees as normal, routine procedures and are not imposed as an additional

requirement by BLM. This information is used to facilitate future operations, protect water supplies and Federal geothermal resources, and to allow accurate appraisal of down-hole conditions related to proper management of the resource.

Form 3260–5, Monthly Report of Geothermal Operations

The form is used to obtain information for monthly production for royalty reporting and production verification from geothermal wells. BLM uses the report to monitor the technical aspects of drilling, production, and injection activities for each well. The information is required on a monthly basis because of a direct link to royalty payments due from the lessee on a monthly basis and the associated production verifications. Without this information BLM could not adequately evaluate activity and performance of non-abandoned wells and production facilities for individual leases. This includes drilling and other well operations and engineering data for individual well production and injection. The lessee also reports any environmental monitoring conducted.

Based on our experience administering the activities on geothermal leases where there are active operations, the public burden for the information collected is estimated to average 1 to 10 hours, depending on which form is submitted. Respondents are lessees and operators of Federal geothermal leases and Indian geothermal contracts subject to BLM oversight. We estimate that approximately 760 permits, notices, and reports will be filed annually. We estimate the total annual burden on new respondents is 1,700 hours. BLM is specifically requesting your comments on its estimate of the amount of time that it takes to prepare a responses. The estimates are summarized in the table below.

Information collection (43 CFR)	Form number/title	Responses	Hours per response	Burden hours	Frequency
3264.2	3260–2, Geothermal drilling permit	60	10	600	Nonrecurring.
3264.2–2	3260–3, Geothermal sundry notice	100	1	100	On occasion.
3262.5–1, 3264.2–3	3260–4, Geothermal well completion report	200	2	400	On occasion.
		40	6	240	
3264.2–4, 3265.2–5	3260–5, Monthly report of geothermal operations.	360	1	360	Monthly.
Totals		760		1,700	

Any interested member of the public may request and obtain, without charge, a copy of Forms 3260–2, 3260–3, 3260–4, and 3260–5 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: August 15, 2000.

Shirlean Beshir,

BLM Information Clearance Officer.

[FR Doc. 00–21109 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–01–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0135

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of an existing approval to collect information from those persons who submit a Form 3160–5, Sundry Notices and Reports on Wells. The information allows BLM to approve proposed operations and ensure compliance with granted approvals.

DATES: Comment on the proposed information collection must be received by October 17, 2000 to assure consideration of them.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street, NW., Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: WOComment@blm.gov. Please include ''Attn: 1004–0135'' and your name and return address in your Internet message.

You may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluid Minerals Group, (202) 452–0338.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq.*

In accordance with the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*); the Mineral Leasing Act of 1920, as amended (30 U.S.C. *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the various Indian leasing acts; and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), BLM's regulations at 43 CFR 3162.3–2 require oil and gas operators on Federal and restricted Indian lands to submit Form 3160–5, Sundry Notices and Reports on Wells, in order to obtain authority to perform specific additional operations on a well and to report the completion of such work. In addition,

43 CFR 3162.5–1 provides authority to require the operator to exercise diligence when disposing of produced waters. The specific data required on this form concerns modifications to existing wells or construction requirements of produced water disposal pits. The regulation at 3162.3–2 divides the proposed action into three categories based on the nature of the impact. Some actions require submitting the form for approval prior to beginning work and again after completion of operations; other actions require submission only after completion; and still others do not require reporting.

All data are delivered to the BLM by the operator or its agent. The data pertains to modifying operations conducted under the terms and provisions of an oil and gas lease (a contractual agreement between a lessee and the United States) for Federal or restricted Indian lands. The compilation of this data enables oversight and approval prior to any modifications to existing wells. In the case of a produced water disposal pit approval, the data provides the technical aspects of pit design to allow for sufficient water containment, thereby preventing unnecessary releases of produced water into the environment.

Based on BLM's experience administering the activities described above, the public reporting burden for the information collected is estimated to average 25 minutes per response. Respondents are operators and operating rights owners of Federal and Indian (except Osage) oil and gas leases. The frequency of response is variable depending on the type of activities conducted at oil and gas wells and on operational circumstances. Approximately 34,000 notices will be filed annually; the estimated total annual burden on new respondents is about 14,166 hours. BLM is specifically requesting your comments on its estimate of the amount of time that it takes to prepare a response.

Any interested member of the public may request and obtain, without charge, a copy of Form 3160–5 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: August 15, 2000.

Shirlean Beshir,

BLM Information Clearance Officer.

[FR Doc. 00–21110 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–01–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0136

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of an existing approval to collect certain information from oil and gas operators who submit an Application for Permit to Drill (Form 3160–3). The information allows BLM to review technical and environmental factors in the process of approving proposed oil and gas drilling operations.

DATES: Comments on the proposed information collection must be received by October 17, 2000 to assure consideration of them.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: WOComment@blm.gov. Please include ''Attn: 1004–0136'' and your name and return address in your Internet message.

You may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluid Minerals Group, (202) 452–0338.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq.*

The Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), as amended; the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), as amended; the various Indian leasing acts; the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as amended, and other environmental laws govern onshore oil and gas operations. BLM's implementing regulations are located at 43 CFR part 3160. The regulations at 43 CFR 3162.3–1 require an oil and gas well operator to submit an Application for Permit to Drill (Form 3160–3) for each well at least 30 days before any drilling operations or surface disturbances are commenced. On the form, respondents are requested to provide information describing the proposed activities, including the type of well and work anticipated, the operator's identity and address, surface and bottom-hole location of the proposed action, and various kinds of technical data, depending on the type of activity proposed.

The data submitted is used for agency review and approval of proposed drilling operations. The review ensures that all actions are in accordance with policies and regulations and are conducted in a technically and environmentally sound manner. Specifically, BLM uses the information to review technical and environmental factors germane to each well, reservoir management, engineering and environmental compliance, and to ensure that drilling is conducted in compliance with existing spacing orders. BLM uses technical data about the drilling for both permit approval and subsequent on-the-ground review and inspection after actual drilling begins. BLM gathers information on prospective production of resources so that all potential impacts can be evaluated during the approval process.

If BLM did not collect the information, there would be no assurance that drilling and associated activities, when and if authorized, are technically and environmentally feasible and ensure proper conservation of the resources. The information submitted provides a basis for BLM to evaluate the proposed well's feasibility and, in turn, determine whether the

application should be disapproved or approved and, if approved, whether any special conditions of approval should be made part of the permit.

BLM also requires operators to prepare certain items such as drilling plans, diagrams and maps, and contingency plans. Operators generally submit these items as attachments to Form 3160–3 in accordance with 43 CFR 3162.3–1. We have included the burden hours for such attachments in OMB approval number 1004–0134, which covers all nonform requirements of 43 CFR Part 3150.

Based on BLM's experience administering the onshore oil and gas program, the public reporting burden for the information collected is estimated to average 30 minutes per response to supply the requested information. Respondents are operators of oil and gas wells. The frequency of response is variable depending on operating circumstances. The number of responses per year is estimated to total 4000, and the estimated total annual burden on new respondents is 2000 hours. BLM is specifically requesting your comments on its estimate of the amount of time that it takes to prepare a response.

Any interested member of the public may request and obtain, without charge, a copy of Form 3160–3 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: August 15, 2000.

Shirlean Beshir,

BLM Information Clearance Officer.

[FR Doc. 00–21111 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–01–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0137

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of an existing approval to collect certain information from oil and gas well operators concerning operations that were performed on each well, using the Well Completion or Recompletion Report and Log (Form 3160–4). BLM uses the information to ensure recording of an accurate, up-to-date, and detailed description of well completion or recompletion operations and compliance with approved plans for conservation of the resource and protection of the environment.

DATES: Comments on the proposed information collection must be received by October 17, 2000, to assure consideration of them.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: WOComment@blm.gov. Please include ''Attn: 1004–0137'' and your name and return address in your Internet message.

You may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluid Minerals Group, (202) 452–0338.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq.*

The Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), as amended; the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), as amended; the various Indian leasing acts; the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*), as amended; and other environmental laws govern onshore oil and gas operations. BLM's implementing regulations are located at 43 CFR part 3160. The regulations at 43 CFR 3162.4–1(b) require an oil and gas well operator to submit a Well Completion or Recompletion Report and Log (Form 3160–4) within 30 days after well completion. The information reported by the operator includes type of work, surface and subsurface location, start and completion dates, producing interval, casing, date of first production, and initial well potential. The operator certifies the accuracy and completeness of the information by signature and date.

BLM uses the information for royalty considerations and inspection and reservoir management purposes. Technical data provide means to evaluate the appropriateness of specific drilling and completion techniques. The data enable BLM to monitor the engineering aspects of production and the legal requirements of lease obligation to develop the resource. In its entirety, the data submitted are used for agency technical evaluation of operations performed on a well and initial well performance. The form documents that operations were carried out in accordance with the terms and provisions of the lease and in technically and environmentally safe manners. If BLM did not collect the information, it would lack the necessary information to monitor compliance with authorized well activity and operations that were performed on wells.

Based on its experience administering the onshore oil and gas program, BLM estimates that the public reporting burden for the information collected averages 1 hour per response. The information collected is already maintained by respondents for their own recordkeeping purposes and must only be entered on the form. Respondents are operators of oil and gas wells. The frequency of response is variable depending on the type of activity conducted at oil and gas wells and operating circumstances but averages two responses per respondent per year. The number of responses per year is approximately 2,200. The estimated total annual burden on new respondents is abut 2,200 hours. BLM is specifically requesting your comments on its estimate of the amount of time that it takes to prepare a response.

Any interested member of the public may request and obtain, without charge, a copy of Form 3160–4 by contacting the

person identified under **FOR FURTHER INFORMATION CONTACT**.

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: August 15, 2000.

Shirlean Beshir,

BLM Information Clearance Officer.

[FR Doc. 00–21112 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–00–1220–AA; 8322]

California: Temporary Closure of Squaw Lake Campground to All Access, Imperial County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Squaw Lake Campground will be closed to all public access: September 5, 2000, through October 31, 2000. The campground will be closed to all motor vehicle and pedestrian traffic. The Squaw Lake boat ramp will also be closed to boat launching.

SUMMARY: Notice is hereby given that all public access is prohibited into the Squaw Lake Campground area. The closed area is located within T.15 S., R.24 E., Section 5, portion of the E½, portion of the E½NW¼, totaling approximately 5 acres more or less.

SUPPLEMENTARY INFORMATION: The temporary closure of Squaw Lake Campground to all public access is being implemented for the health and safety of the public. The U.S. Bureau of Reclamation will be conducting safety testing of the dam structures to determine foundation and seismic stability of the structures. During the testing, the water level of Senator Wash Reservoir will be raised and lowered significantly. The dam will be monitored on a 24 hour basis utilizing various methods and equipment such as flood lights, generators, piezometers and an early alert warning siren for safety. The campground will remain closed to all public access during testing which will take place from September 5, 2000, through October 31, 2000. This closure shall apply to all members of the public unless permitted by an authorized Bureau of Land Management Officer. Authority for this action is contained in 43 CFR 8364.1. Violation of this regulation is punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months. Vehicles found in violation of this closure notice are subject to being towed at the owners expense.

EFFECTIVE DATES: September 5, 2000, through October 31, 2000.

FOR FURTHER INFORMATION CONTACT: Mark Lowans, Yuma Field Office, 2555 Gila Ridge Road, Yuma, Arizona 85365; (520) 317–3210.

Dated: August 4, 2000.

Maureen A. Merrell,

Assistant Field Manager, Business and Fiscal Services/Acting Field Manager.

[FR Doc. 00–21066 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–700–00–1020-XQ–1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Southwest Resource Advisory Council Meeting.

SUMMARY: Notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will meet in September 2000 in Dolores, Colorado.

DATES: The meeting will be held on Thursday, September 14, 2000.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management, Southwest Center, 2465 South Townsend Avenue, Montrose, Colorado 81401; phone 970–240–5335; TDD 970–240–5366; e-mail roger__alexander@co.blm.gov.

SUPPLEMENTARY INFORMATION: The September 14, 2000 meeting will be held at the Anasazi Heritage Center, 27501 Highway 184, Dolores, Colorado. The meeting will begin at 9 a.m. and at approximately 4:30 p.m. The agenda will include introduction of new members, and briefings on BLM's wilderness program and the Southwest Colorado Cultural Site Stewardship Program. General public comment is scheduled for 9:15 a.m.

Summary minutes for Council meetings are maintained in the Southwest Center Office and on the World Wide Web at www.co.blm.gov/mdo/mdo__sw__rac.htm and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: August 14, 2000.

Roger Alexander,

Public Affairs Specialist.

[FR Doc. 00–21052 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–JB–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, September 19, 2000 from 8 a.m. to 5 p.m. local time, and on Wednesday, September 20, from 8 a.m. to 12 noon local time.

ADDRESSES: The Advisory Board will meet at the Hitching Post Inn in the Cheyenne Club Room West, Cheyenne, Wyoming.

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 September 16, 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, September 19, 2000:	
Welcome	Al Pierson
Approval of July Board Minutes	Nat Messer
Strategic Plan: Board Comments & Recommendations	Nat Messer
Break	
Burro Strategic Plan: Board Comments/Recommendations	Nat Messer
Working Lunch	
Draft Report to Congress: Board Comments/Recommendations	Nat Messer
Adoption Process Standardization	Tom Pogacnik
Break	
Long term Management Strategy	Cribley/Bryant
Public Comment	Nat Messer
Adjourn	Nat Messer
Wednesday, September 20, 2000:	
Population Viability Report: Board Comments/Recommendations	Nat Messer
Break	
Drought/Emergency Gathers	Tom Pogacnik
Close Out/Recommendations	Nat Messer
Adjourn	Nat Messer
Tour to Mantle Training Facility	BLM–Wyoming

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 September 19, 2000 at the appropriate point in the agenda. This opportunity is anticipated to occur at 4:00 p.m. local time. Persons wishing to make statements should register with the BLM by noon on September 19, 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: August 11, 2000.

Henri R. Bisson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 00–20995 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–84–U

DEPARTMENT OF THE INTERIOR
Bureau of Land Management

[C0–150–00–1210–PA–242A]

Notice of Intent to Amend the Uncompahgre Resource Management Plan and Environmental Impact; Statement and Prepare a National Conservation Area Management Plan and Environmental Impact; Statement for the Gunnison Gorge National Conservation Area and Wilderness

AGENCY: Bureau of Land Management (BLM), Uncompahgre Field Office, Montrose, Colorado.

ACTION: Notice; Intent to amend the Uncompahgre Basin Resource Management Plan (RMP) and associated Environmental Impact Statement (EIS) and invite public comment for the preparation of management plan for the Gunnison Gorge National Conservation Area (NCA) and Wilderness.

SUMMARY: This document provides notice of the Bureau of Land Management's intent to amend its Uncompahgre Basin Resource Management Plan governing the management of public land within the Uncompahgre Field Office Area in southwest Colorado, in particular, those lands within and adjacent to the newly designated Gunnison Gorge National Conservation Area and Wilderness, formerly managed as the Gunnison Gorge Special Recreation Management Area (SRMA) and Wilderness Study Area (WSA). This notice also initiates the public scoping process for the

preparation of the Gunnison Gorge NCA/Wilderness plan to examine proposed issues and planning criteria. This scoping process will also include an evaluation of the existing Resource Management Plan in the context of NCA management.

ADDRESSES: For further information and/or to have your name added to the NCA/Wilderness Plan mailing list, contact Karen Tucker, Bureau of Land Management, Uncompahgre Field Office, 2505 South Townsend Ave., Montrose, CO 81401; Telephone (970) 240–5309; Fax. (970) 240–5367.

SUPPLEMENTARY INFORMATION: The Gunnison Gorge National Conservation Area and Wilderness Plan will replace the existing Recreation Area Management Plan for the Gunnison Gorge Recreation Lands, Colorado (RAMP, 1985) and Addition to the Recreation Area Management Plan (RAMP Add., 1988) and amend the Uncompahgre Basin Resource Management Plan and Environmental Impact Statement (RMP/EIS, 1987). Existing decisions in those documents which are still valid will be carried forward into the new NCA Management Plan. The Uncompahgre RMP/EIS and Gunnison Gorge Recreation Area Management Plans are located in the Uncompahgre Field Office in Montrose, Colorado.

The NCA planning area includes the 57,725 acres Gunnison Gorge National Conservation Area and 17,700 acres Gunnison Gorge Wilderness Area included within the NCA boundary. Other BLM lands immediately adjacent to the NCA, Wilderness Area, and Black Canyon of the Gunnison National Park will also be included within the planning area boundary. These lands include, but are not limited to the former Tri-State lands, approximately 5,000 acres located at the northwest end of the NCA, public lands in the Peach Valley and Flat Top area on the NCA's west and south border, and public lands on the east side of the Gunnison River in the Red Canyon and Fruitland Mesa areas.

Public and focus groups meetings will be held throughout the plan scoping and preparation period. Meeting locations will be rotated between the towns of Montrose, Delta, Olathe, Hotchkiss, Crawford, and Paonia in order to ensure local community participation and input. An interactive NCA web site will provide additional opportunities for public comment and participation. Written comments will also be accepted throughout the planning process at the address shown above. A newsletter will be sent out to all interested individuals and groups requesting comments on the planning proposal. Meetings and comment deadlines will be announced through the local news media, in the newsletter, and on the BLM NCA web site. Additional public participation opportunities will be provided for comment on the alternatives and upon publishing the Draft NCA/EIS.

Documents pertinent to this proposal may be examined at the BLM office in Montrose, Colorado. Some of the issues that have been identified in the initial phases of the NCA Plan process include: Water quantity and quality, water rights, landscape health, riparian and aquatic habitat protection, threatened and endangered specie habitat protection, wildlife habitat quality and fragmentation, declining biodiversity, reintroduction of native species, and noxious weed control. Other factors to be considered include recreation and resource use, protection of wilderness, riparian, and scenic values, the level and intensity of recreation management, including allocation of commercial and private river and upland use, upgrade and new construction of recreation facilities, cultural resource protection and interpretation, grazing of livestock, management of the mineral estate on adjacent areas not withdrawn from mineral entry and location, public access, transportation and utility corridors, off highway vehicle designations, and woodland product harvest.

The following disciplines will be represented on the BLM planning team: Wilderness, recreation, wildlife, fisheries, range management, forestry, geology, realty, soils, and hydrology. Planning criteria include: policy, legal, and regulatory constraints, The Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (P. L. 106–76, October 21, 1999), the Wilderness Act, public land health standards, as well as other requirements to maintain scenic values, recreational values and meet public recreation demands, determine the level of management intensity required, determine the need for land or easement acquisition, and set management objectives to protect the priority resources within the NCA and Wilderness.

BACKGROUND INFORMATION: The Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 designated the 57, 25 acre Gunnison Gorge National Conservation Area (NCA) and Wilderness Area (17,700 acres) which are managed by the Bureau of Land Management Uncompahgre Field Office (UFO) in Montrose, Colorado. The Act also upgraded the former Black Canyon of the Gunnison National Monument (which is contiguous to the NCA) to National Park status and expanded the National Park with the transfer of approximately 7,000 acres of former BLM managed land to the National Park Service. A National Conservation Area or NCA is the designation given by the U.S. Congress to special lands managed by the Bureau of Land Management to permanently protect and conserve identified resource values of national interest. The 1999 Act directs the BLM to develop a ''comprehensive plan for the long-range protection and management of the Conservation Area'' within four years of the designation date.

Dated: August 10, 2000.

Allan J. Belt,

Uncompahgre Field Office Manager.

[FR Doc. 00–21065 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement/ General Management Plan, Lassen Volcanic National Park, Lassen, Plumas, Shasta and Tehama Counties, California; Notice of Availability

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a draft environmental impact statement assessing the potential impacts of the proposed General Management Plan for Lassen Volcanic National Park, located in northeastern California. The park currently contains approximately 79,000 acres of designated Wilderness. The subject document identifies and analyzes four alternatives (and appropriate mitigation strategies) for the management and use of Lassen Volcanic National Park over the next 15 years.

Proposed Plan and Alternatives: The draft environmental impact statement includes three ''action'' alternatives and one ''no action'' (existing conditions) alternative.

Alternative A: No Action, assumes that physical facilities would remain largely unchanged and that staffing and operational funding would remain relatively constant over the planning period.

Alternative B: Resource Preservation and Basic Visitor Service, provides a program for preserving, and where

necessary, restoring significant park resources. It includes significant staffing and funding increases for the park's resource management functions, restores key elements of the park's infrastructure, provides for restoration of several specific sites having natural system conflicts, establishes a standards-based management zoning system, and proposes designation of approximately 25,000 additional acres as part of the National Wilderness Preservation System. The plan also includes program increases and visitor facility improvements to provide for quality basic visitor service.

Alternative C: Resource Protection and Enhanced Visitor Experience. This alternative is the proposed General Management Plan for Lassen Volcanic National Park It includes all the features of Alternative B, and provides enhancement to visitor experience by making more facilities available during winter months, and increasing interpretive services, facilities, and information.

Alternative D: Resource Protection and Expanded Visitor Opportunities, includes all of the features of Alternative C and, in addition, provides for expansion of family and group campgrounds at several locations. It also expands winter access at the north entrance by plowing the park road an additional 9 miles to the Devastated Area, and keeping one loop of the campground open for winter camping.

Significant adverse environmental impacts would be expected to result from Alternative A as a number of environmental resources are undergoing deterioration under current conditions. All of the action alternatives include programs to arrest the deterioration of resources and mitigation features to avoid or reduce impacts from implementation of project features.

Comments: Persons wishing to provide information or express any concerns about management issues and future land management direction are encouraged to comment. All responses must be postmarked not later than October 31, 2000, and these letters should be addressed to the Superintendent, Lassen Volcanic National Park, P.O. Box 100, Mineral, California 96063–0100. Questions regarding the proposed plan or public meetings should be directed to the Superintendent either by mail in care of the above address, or else by telephone at (530) 595–4444.

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.

SUPPLEMENTARY INFORMATION: Seven public meetings will be held in communities in the vicinity of the park. Dates and locations are shown below. All meetings with one exception will be held from 7–8:30 pm (a morning meeting will be held 10–12 am on September 9).

August 29—Redding Community Center, 777 Cypress Avenue, Redding.
August 30—Red Bluff Community/Senior Center, 1500 South Jackson St., Red Bluff.
August 31—City Council Chamber, 421 Main Street, Chico.
September 5—Chester Memorial Hall, 225 Gay Street, Chester.
September 6—Veteran's Memorial Building, 1205 Main Street, Susanville.
September 7—Shingletown Fire Hall, 1 mile east of Shingletown on Highway 44.
September 9—Mineral School, 38355 Scenic Avenue, Mineral.

Decision: The official responsible for the final decision is Regional Director, Pacific West Region; subsequently the official who will be responsible for implementation will be the Superintendent, Lassen Volcanic National Park.

Dated: August 11, 2000.

William C. Walters,

Deputy Regional Director, Pacific West.

[FR Doc. 00–21086 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement, Interagency Bison Management Plan for the State of Montana and Yellowstone National Park

AGENCY: National Park Service, Interior.

ACTION: Availability of final environmental impact statement plan.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a final Environmental Impact Statement (FEIS) for Yellowstone National Park, Wyoming.

DATES: The DEIS was on public review from June 12, 1998 through November 3, 1998. Responses to public comment are addressed in the FEIS. There will be a 30-day public review on the FEIS. Comments must be post-marked by October 2, 2000.

ADDRESSES: Copies of the FEIS are available from the Superintendent, Yellowstone NP, Yellowstone National Park, Wyoming 82190. Public reading copies of the FEIS will be available for review at the following locations:

Office of the Superintendent, Yellowstone NP, Yellowstone National Park, WY 82190, Telephone: (307) 344–2010.

Planning and Environmental Quality, Intermountain Support Office—Denver, National Park Service, P.O. Box 25287, Denver, CO 80225–0287, Telephone: (303) 969–2851.

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW, Washington, D.C. 20240, Telephone: (202) 208–6843.

Comments on the FEIS should be sent to: Bison Management Plan EIS Team, Yellowstone National Park, Attn: Sarah Bransom, YCR, PO Box 168, Yellowstone National Park, WY 82190.

SUPPLEMENTARY INFORMATION: The FEIS presents 8 alternatives with a full range of management techniques for maintaining a wild, free ranging bison population while minimizing the risk of transmitting the disease Brucellosis from bison to domestic cattle on public and private lands in Montana adjacent to Yellowstone National Park. Management techniques used in various combinations to meet the plan's objectives include capturing and testing bison for Brucellosis, quarantining, slaughtering, hunting, and vaccination.

The FEIS in particular evaluates the environmental consequences of the proposed action and the other alternatives on the following topics: bison population, recreation, livestock operations, socioeconomics, threatened, endangered and sensitive species, other wildlife species, human health, cultural resources, and visual resources.

FOR FURTHER INFORMATION CONTACT: Superintendent, Yellowstone National Park, at the above address and telephone number.

John A. King,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. 00–21088 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement and Comprehensive Management Plan, Merced Wild and Scenic River, Yosemite National Park, Madera, Mariposa, Merced, Mono & Tuolumne Counties, California; Notice of Approval of Record of Decision

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190, as amended) and the regulations promulgated by the Council on Environmental Quality (40 CFR Part 1505.2)—and in accord with a ruling of the U.S. District Court—the Department of the Interior, National Park Service has prepared and approved a Record of Decision for the Final Environmental Impact Statement and Merced River Comprehensive Management Plan, Yosemite National Park. This programmatic Plan addresses NPS stewardship of an 81-mile segment of the 122 miles of the Merced River designated as ''Wild and Scenic'' by Congress in 1987. The requisite no-action period was initiated July 7, 2000, with the U.S. Environmental Protection Agency's **Federal Register** notification of the filing of the Final Environmental Impact Statement (FEIS).

Decision: As soon as practical the National Park Service will begin to implement the Merced River Comprehensive Management Plan described as the Proposed Action (Alternative 2) contained in the FEIS. This alternative was deemed to be the environmentally preferred alternative. This course of action and four alternatives were identified and analyzed in the Final and Draft Environmental Impact Statements (the latter was announced for comment in the **Federal Register** on January 7, 2000). The full range of foreseeable environmental consequences were assessed, and appropriate mitigation measures identified.

Copies: Interested parties desiring to review the Record of Decision may obtain a copy by contacting the Superintendent, Yosemite National Park, P.O. Box 577, Yosemite, California 95389; or via telephone request at (209) 372–0201.

Dated: August 11, 2000.

William C. Walters,

Deputy Regional Director, Pacific West Region.

[FR Doc. 00–21085 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–70–P/M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft Director's Order Concerning National Park Service Policies and Procedures Governing Its Emergency Medical Services Program

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) has prepared a Director's Order setting forth its policies and procedures governing emergency medical services, training requirements, delivery and preparedness systems. When adopted, the policies and procedures will apply to all units of the National Park System, and will supersede and replace the policies and procedures issued in January 1991.

DATES: Written comments will be accepted until September 19, 2000.

ADDRESSES: Draft Director's Order #51 is available on the Internet at *http://www.nps.gov/refdesk/DOrders/index.htm.* Requests for copies and written comments should be sent to Ken Mabery, Staff Park Ranger MS7408, National Park Service, Department of Interior, 1849 C Street NW, Washington, DC 20240, or to his Internet address: ken__mabery__DC@nps.gov.

FOR FURTHER INFORMATION CONTACT: Ken Mabery at 202/208–6380.

SUPPLEMENTARY INFORMATION: The NPS is updating its current system of Internal written instructions. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, they are first made available for public review and comment before being adopted. The policies and procedures governing emergency medical services management have previously been published in the form of guideline NPS–51. That guideline will be superseded by the new Director's Order #51 (and a reference manual that will be issued subsequent to the Director's Order). The draft Director's Order covers topics such as applicable authorities, relationships with other jurisdictions, quality improvement, program evaluation, needs assessment, training requirements, data keeping, prevention programs, program review, and preparedness. Director's Order 51 addresses only emergency medical services management; other emergency services (*e.g.,* search and rescue, hazardous materials spills, and fire management), are addressed in other Director's Orders that are available on the Internet site listed above.

Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment.

Dated: August 7, 2000.

Chris Andress,

Chief, Ranger Activities Division.

[FR Doc. 00–21089 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Final Notice on NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specified boundary was identified at the time of designation and therefore are without a clear delineation of the property involved.

In accordance with the National Historic Landmark program regulations 36 CFR 65, the National Park Service notifies owners, public officials and other interested parties and gives them an opportunity to comment on the proposed boundary documentation.

The 60-day comment period for the National Historic Landmark listed below has ended and the boundary documentation has been approved. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from the National Register of Historic Places, National Register, History and Education, National Park Service, 1849 C Street, NW, Suite NC 400, Washington, DC 20240, Attention: Marilyn Harper (Phone: 202–343–9546).

Skagway and White Pass District National Historic Landmark

Skagway, Skagway-Angoon-Yakutat Census Division, Alaska Designated a Landmark on June 13, 1962

Carol D. Shull,

Chief of the National Historic Landmarks Survey and Keeper of the National Register of Historic Places National Register, History and Education.

[FR Doc. 00–21087 Filed 8–17–00; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: August 22, 2000 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–884 (Preliminary) (Anhydrous Sodium Sulfate from Canada)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on August 24, 2000; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on August 31, 2000.)
5. Inv. No. 731–TA–696 (Review) (Pure Magnesium from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on August 31, 2000.)
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: August 14, 2000.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–21194 Filed 8–16–00; 2:10 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 25, 2000, and published in the **Federal Register** on March 6, 2000, (65 FR 11801), B.I. Chemicals, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm plans to bulk manufacture methylphenidate for product development.

No comments or objections have been received. DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of B.I. Chemicals, Inc. to manufacture methylphenidate is consistent with the public interest at this time. DEA has investigated B.I. Chemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, 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 class of controlled substance listed above is granted.

Dated: August 7, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–21118 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Alfred R. Brown, D.D.S.; Denial of Application

On October 8, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Alfred R. Brown, D.D.S. (Respondent) of Memphis, Tennessee, notifying him of an opportunity to show cause as to why DEA should not deny his application for a DEA Certificate of Registration pursuant to 21 U.S.C. 823(f) for reason that his registration would be inconsistent with the public interest.

By letter dated November 9, 1999, Respondent file a request for a hearing and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On November 15, 1999, Judge Bittner issued an Order for Prehearing Statements, and on November 23, 1999, the Government filed its prehearing statement. Respondent was given until December 27, 1999, to file his prehearing statement. In her Order for Prehearing Statements, the Administrative Law Judge cautioned Respondent ''that failure to file timely a prehearing statement as directed above may be considered a waiver of hearing and an implied withdrawal of a request for hearing.''

Respondent did not file a prehearing statement. As a result, on January 6, 2000, Judge Bittner issued an Order Terminating Proceedings, finding that because Respondent did not file a prehearing statement he is deemed to have waived his opportunity for a hearing. Since Respondent has waived his right to a hearing, the Administrator hereby enters his final order without a hearing and based upon the investigative file pursuant to 21 CFR 1301.43(e) and 1301.46.

The Administrator finds that Respondent previously possessed DEA Certificate of Registration AB5661980. This registration expired without being renewed and was subsequently retired in March 1987.

The Administrator further finds that on February 6, 1990, the Tennessee Department of Health and Environment, Board of Dentistry (Board) issued an Order of Summary Suspension which suspended Respondent's license to practice dentistry. The Board found that between October 1987 and February 1990, Respondent prescribed, administered, dispensed, and acquired controlled substances when he was not authorized to do so in violation of 21 U.S.C. 841(a)(7). In addition, during this same period, Respondent indiscriminately prescribed controlled substances to patients in amounts in excess of those amounts medically necessary, prescribed controlled substances to known drug abusers, acquired controlled substances by prescription for office use, and failed to keep proper dental records, all in violation of State and Federal laws.

Subsequently, in an Agreed Order filed on May 22, 1990, the Board limited the suspension of Respondent's license to a period of six months, ordered that he surrender his DEA registration, and placed his license on probation for five years. Thereafter, on three separate occasions during 1990 and 1992, the Board found that Respondent was not in compliance with the terms of his probation.

On January 22, 1996, pursuant to another Agreed Order, the Board again suspended Respondent's dental license for a period of thirty days, based on his failure to refund proceeds from an insurance claim for services he did not provide.

Evidence in the record indicates that it was not until June 11, 1998, that the Board issued an Order allowing Respondent to seek a DEA registration.

Pursuant to 21 U.S.C. 823(f), the Administrator may deny an application for a DEA Certificate of Registration if he determines that the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate state licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether an application should be denied. *See* Henry J. Schwarz, Jr., M.D., 54 FR 16,422 (1989).

As to factor one, documentation in the file indicates that Respondent's license to practice dentistry was summarily suspended in 1990. Then effective May 22, 1990, Respondent and the Board entered into an Agreed Order whereby Respondent's license was suspended for six months followed by five years probation, he was fined $1,500.00, and he was precluded from seeking reinstatement of his DEA registration for at least five years. Respondent entered into another Agreed Order with the Board in January 1996, which suspended his license again for a 30 day period. As of 1998, Respondent's license was reinstated and he received permission from the Board to seek reinstatement of his DEA registration.

Regarding factors two and four, Respondent's experience in handling controlled substances and his compliance with applicable laws relating to controlled substances, the Administrator has considered what evidence is available to him. The Board orders found in the investigative file indicate that between October 1987 and February 1990, Respondent prescribed, administered, dispensed, and acquired controlled substances when he was not authorized to do so in violation of 21 U.S.C. 841(a)(1). In addition, during this same period, Respondent indiscriminately prescribed controlled substances to patients in amounts in excess of those amounts medically necessary, prescribed controlled substances to known drug abusers, acquired controlled substances by prescription for office use, and failed to keep proper dental records, all in violation of State and Federal laws.

The Administrator notes that there is no evidence in the investigative file of the underlying facts which led to the Board's findings. However, it is also noted that Respondent has not submitted any contradictory evidence.

As to factors three and five, there is no evidence in the investigative file that Respondent has been convicted of any controlled substance related offense nor of any other conduct by Respondent that may threaten the public health and safety.

The Administrator concludes that while there is no evidence of the underling facts which led to the Board's actions, it is clear that Respondent's mishandling of controlled substances was serious enough to warrant the suspension of his dental license. Respondent has not presented any mitigating evidence. Therefore, the Administrator concludes that Respondent's registration would be inconsistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 0.100(b), hereby orders that the application for registration submitted by Alfred R. Brown, D.D.S., be, and it hereby is, denied. This order is effective October 17, 2000.

Dated: August 3, 2000.

Donnie R. Marshall,

Administrator.

[FR Doc. 00–21005 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Church of the Living Tree; Denial of Application

On November 4, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to The Church of the Living Tree of Leggett, California, notifying it of an opportunity to show cause as to why DEA should not deny its application for registration as a manufacturer of marijuana, under 21 U.S.C. 823(a), for reason that its intended purpose for the marijuana is not in conformity with the Controlled Substances Act. The order also notified The Church of the Living Tree that should no request for a hearing be filed within 30 days of receipt of the Order to Show Cause, its hearing right would be deemed waived.

DEA received a signed receipt indicating that the Order to Show Cause was received by Mr. John Stahl, the individual who signed the application for registration on behalf of The Church of the Living Tree. The original postal return receipt was postmarked in Leggett, California on November 16, 1999, and the signed receipt was received by DEA on December 1, 1999. No request for a hearing or any other reply was received by the DEA from The Church of the Living Tree or anyone purporting to represent it in this matter. Therefore, the Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that The Church of the Living Tree is deemed to have waived its hearing right. After considering material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Administrator finds that documentation in the file in this matter indicates that The Church of the Living Tree is seeking to manufacture and distribute marijuana for human consumption. Marijuana is a Schedule I controlled substance and as such there is no currently accepted medical use in treatment in the United States. Here it appears that The Church of the Living Tree wants to grow marijuana to be consumed by medical marijuana patients, which is an impermissible use under the Controlled Substances Act. See 21 U.S.C. 812(b)(1), 822(b), and 841(a)(1). Therefore, The Church of the Living Tree's application must be denied.

The Church of the Living Tree did not respond to the Order to Show Cause and consequently did not present any evidence to refute the Government's assertions.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 0.100(b), hereby orders that the application for registration submitted by The Church of the Living Tree, be, and it hereby is, denied. This order is effective August 18, 2000.

Dated: August 3, 2000.

Donnie R Marshall,

Administrator.

[FR Doc. 00–21006 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 22, 1999, and published in the **Federal Register** on February 2, 2000 (65 FR 22), ISP Freetown Fine Chemicals, Inc., 238 South Main Street, Freetown, Massachusetts 02702, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 2,5-dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture bulk 2,5-dimethoxyamphetamine for conversion into a non-controlled substance.

DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of ISP Freetown Fine Chemicals Inc. to manufacture 2,5-dimethoxyamphetamine is consistent with the public interest at this time. DEA has investigated the ISP Freetown Fine Chemicals Inc. to ensure that the company's continued registration is consistent with the public interest. These investigations have 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 class of controlled substance listed above is granted.

Dated: August 1, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–21116 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 21, 2000, and published in the **Federal Register** on May 12, 2000 (65 FR 30615), LifePoint, Inc., 10410 Trademark Street, Rancho Cucamonga, California 91730, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II

The firm plans to use gram quantities of the listed controlled substances to manufacture drug abuse test kits.

No comments or objections have been received. DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of LifePoint, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, 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: August 7, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–21119 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on April 11, 2000, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Poppy Straw (9650)	II
Poppy Straw Concentrate (9670)	II

The firm plans to import the listed controlled substances for the manufacture of bulk pharmaceutical controlled substances and non-controlled substance flavor extract.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basis classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing 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 (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 7, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–21121 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

William C. Potter, D.V.M.; Revocation of Registration

On November 5, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William C. Potter, D.V.M., of Paducah, Kentucky, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BP2137847, and deny any pending applications for the renewal of such registration pursuant to 21 U.S.C. 823(f), 824(a)(2) and 824(a)(4), for reason that he was convicted of controlled substance related offenses and that his continued registration would be inconsistent with the public interest. The order also notified Dr. Potter that should no request for a hearing be filed within 30 days of receipt of the Order to Show Cause, his hearing right would be deemed waived.

A copy of the Order to Show Cause was mailed to Dr. Potter's register location, and a signed receipt indicates that the order was received by an individual on behalf of Dr. Potter on November 13, 1999. A second copy of the Order to Show Cause was mailed to Dr. Potter at an address in Marion, Illinois. DEA received a receipt signed on December 10, 1999, by an individual on behalf of Dr. Potter. No request for a hearing or any other reply was received by DEA from Dr. Potter or anyone purporting to represent him in this matter. Therefore, the Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Potter is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Administrator finds that Dr. Potter is a registered veterinarian in Kentucky. In November 1991, investigators from the Kentucky Department of Human Resources (The Department) conducted an inspection of Dr. Potter's records. The inspection revealed that while Dr. Potter purchased various Schedule II controlled substances, he had no records of dispensing or administration. In addition, no inventory was taken for Schedule III and IV controlled substances, and there were no purchase records for these substances.

In June 1993, the Department conducted another inspection of Dr. Potter's veterinary practice. An audit was conducted of several controlled substances. Since Dr. Potter still had not conducted an inventory of these substances a zero beginning balance was used to conduct the audit. The audit revealed shortages, meaning that Dr. Potter could not account for all of the substances for which he was responsible. Further, because a zero beginning balance was used, the actual shortages were most likely greater than those revealed by the audit because Dr. Potter was not held responsible for what he had on hand at the start of the audit period. This inspection also revealed that Dr. Potter failed to maintain DEA official order forms, and failed to maintain Schedule II records separate from Schedule III through V records.

In May 1997, DEA conducted an investigation of Dr. Potter that revealed that between 1993 and 1997, he distributed large quantities of anabolic steroids, Schedule II controlled substances, to numerous individuals outside the scope of his veterinary practice and for no legitimate medical purpose.

Subsequently, in November 1998, Dr. Potter was indicted in the United States District Court for the Western District of Kentucky and charged with 432 felony counts of the unlawful distribution of controlled substances in violation of 21 U.S.C. 841(a)(1). Following a jury trial, Dr. Potter was found guilty of all 432 counts, and he was sentenced on May 16, 1999, to serve 21 months imprisonment and pay a fine and court costs.

Pursuant to 21 U.S.C. 824(a), ''[a] registration pursuant to section 823 of this title to * * * dispense a controlled substance * * * may be suspended or revoked by the Attorney General upon a finding that the registrant—* * * (2) has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance. * * *''

In addition, pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Administrator may revoke a DEA Certificate of Registration and deny any pending application for renewal of such registration, if he determined that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate State licensing board of professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, M.D., 54 FR 16,422 (1989).

It is undisputed that Dr. Potter was convicted in May 1999, in the United States District Court for the Western District of Kentucky of 432 felony counts relating to controlled substances. therefore, grounds exist to revoke Dr. Potter's DEA registration under 21 U.S.C. 824(a)(2).

Next the Administrator considers whether Dr. Potter's continued registration would be inconsistent with the public interest. As to factor one, there is no evidence in the investigative file of any action being taken against Dr. Potter's veterinary license or his ability to handle controlled substances in the Commonwealth of Kentucky. Therefore, it appears that Dr. Potter has an unrestricted state license.

Factors two and four, Dr. Potter's experience in handling controlled substances and his compliance with controlled substance laws, are clearly relevant in determining the public interest. Inspections in 1991 and 1993 revealed violations of controlled substance laws and regulations. Dr. Potter failed to maintain complete and accurate records as required by 21 U.S.C. 827 and 21 CFR 1304.21, to take and maintain an initial and a biennial inventory as required by 21 U.S.C. 827 and 21 CFR 1304.11, to maintain DEA official order forms reflecting the purchase of controlled substances a required by 21 U.S.C. 828 and 21 CFR 1305.09, to maintain Schedule II records separately from Schedule III through V

records as required by 21 CFR 1304.04(f)(1) and (g), and he issued prescriptions to obtain controlled substances for office use in violation of 21 CFR 1306.04(b). These are all also violations of state law. Further from 1993 to 1997, Dr. Potter distributed anabolic steriods to a number of individuals for no legitimate medical purpose and outside the scope of professional practice in violation of 21 U.S.C. 841(a)(1).

As to factor three, it is undisputed that Dr. Potter was convicted of 432 felony offenses relating to his unlawful distribution of anabolic steriods.

Regarding factor five, there is no evidence in the investigation file of any other conduct which may threaten the public health and safety.

The Administrator concludes that Dr. Potter's continued registration would be inconsistent with the public interest based on his controlled substance record keeping violations, his unlawful distribution of anabolic steriods, and his conviction of 432 felony offenses. No evidence of explanation or mitigating circumstances was offered by Dr. Potter, or anyone purporting to represent him.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration BP2137847, previously issued to William C. Potter, D.V.M., be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective September 18, 2000.

Dated: August 3, 2000.

Donnie R. Marshall,

Administrator.

[FR Doc. 00–21114 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 6, 2000, and published in the **Federal Register** on April 25, 2000, (65 FR 24227), Roche Diagnostics Corporation, 9115 Hague Road, Indianapolis, Indiana 46250, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Phencyclidine (7471)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

Roche Diagnostics Corporation plans to manufacture small quantities of the above listed controlled substances for incorporation in drug of abuse detection kits.

DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of Roche Diagnostics Corporation to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Roche Diagnostics Corporation on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, 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 0.014, 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: August 1, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–21117 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated April 6, 2000, and published in the **Federal Register** on April 25, 2000 (65 FR 24227), Roche Diagnostics Corporation, 9115 Hague Road, Indianapolis, Indiana 46250, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Cocaine (9041)	II
Methadone (9250)	II
Morphine (9300)	II

The firm plans to import the listed controlled substances for the manufacture of diagnostic products.

No comments or objections have been received. DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of Roche Diagnostics Corporation, is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Roche Diagnostics Corporation on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21, Code of Federal Regulations, section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 7, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–21120 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Graham Travers Schuler, M.D.; Denial of Application

On November 19, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Graham Travers Schuler, M.D., of Bloomington, Indiana. The Order to Show Cause notified him of an opportunity to show cause as to why DEA should not deny his application for a DEA Certificate of Registration pursuant to 21 U.S.C. 823(f) and 824(a)(3) and (a)(4), for reason that his state controlled substance

registration was denied and that his registration would be inconsistent with the public interest. The order also notified Dr. Schuler that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent to the address listed on Dr. Schuler's application for registration. DEA received a return receipt indicating that an individual signed for the Order to Show Cause on December 1, 1999. No request for a hearing or any other reply was received from Dr. Schuler or anyone purporting to represent him in this matter. Therefore, the Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Schuler is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Administrator finds that Dr. Schuler submitted an application for registration with DEA at an address in Bloomington, Indiana. The Administrator further finds that on or about September 18, 1999, the Controlled Substance Advisory Committee and the Indiana Board of Pharmacy issued a Final Order denying Dr. Schuler's application for a controlled substance registration. Dr. Schuler did not present any evidence that he has since granted an Indiana controlled substance registration. Therefore, the Administrator finds that Dr. Schuler is not currently authorized to handle controlled substances in the State of Indiana.

The DEA does not have the statutory authority under the Controlled Substance Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See* Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

Here it is undisputed that Dr. Schuler is not currently authorized to handle controlled substances in the State of Indiana. As a result, he is not entitled to a DEA registration in that state.

Since DEA does not have the statutory authority to issue Dr. Schuler a DEA registration because he is not currently authorized to handle controlled substances in Indiana, the Administrator concludes that it is unnecessary to determine whether Dr. Schuler's application should be denied because his registration would be inconsistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for registration submitted by Graham Travers Schuler, M.D., be, and it hereby is, denied. This order is effective September 18, 2000.

Dated: August 3, 2000.

Donnie R. Marshall,

Administrator.

[FR Doc. 00–21004 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 6, 2000, and published in the **Federal Register** on April 25, 2000 (65 FR 24228), Stepan Company Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture bulk controlled substances for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of Stepan Company Natural Products to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Stepan Company Natural Products on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, 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: August 1, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–21115 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Health and Human Services Statistical Data for Refugee Asylee Adjusting Status.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 5, 2000 at 65 FR 35672, allowing for a 60-day public comment period. No comment was received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 18, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Department of Justice Desk Officer, 725 17th Street, N.W., Room 10235, Washington, DC 20530; 202–395–4718.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

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

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

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

Overview of This Information Collection

(1) Type of Information Collection: Reinstatement without change of a previously approved collection.

(2) Title of the Form/Collection: Health and Human Services Statistical Data for Refugee Asylee Adjusting status.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form I–643, Adjudications Division, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households. This form is necessary for the Service to comply with Section 412(a)(8) of the INA which requires the Office of Refugee Resettlement Report to compile a summary and evaluation of the collected information. The Service is required to report on the status of refugees at the time of adjustment to lawful permanent resident.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 195,000 responses at 10 minutes (.166 hours) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 32,370 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 14, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–21014 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Application for Transmission of Citizenship Through a Grandparent.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 15, 2000 at 65 FR 31016, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 18, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Department of Justice Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530; 202–395–4718.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application for Transmission of Citizenship Through a Grandparent.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600/N–643, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The collection of this information is required by Section 322 of the Immigration and Nationality Technical Corrections Act of 1994, which allows for a United States citizen parent to use the citizen grandparents' residence for transmission of citizenship onto his or her natural or adopted child.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 9,641 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,820 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 14, 2000.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–21015 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: application—checkpoint pre-enrolled access lane.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 15, 2000 at 65 FR 31015. The notice allowed for a 60-day public comment period. No public comment was received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 18, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Department of Justice Desk Officer, Room 10235, 725 17th Street, NW., Washington, DC 20530; 202–395–4718.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application—Checkpoint Pre-enrolled Access Lane.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–866. Border Patrol Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or households. The information collected on this form will be used by the Immigration and Naturalization Service to determine eligibility for participation in the Checkpoint Pre-enrolled Access Lane (PAL) program for persons and vehicles at immigration checkpoints within the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,500 responses at 32 minutes (.53 hours) per response.

(6) *An estaimte of the total public burden (in hours) associated with the collection:* 6,625 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington, Center, 1001 G Street, NW, Washington, DC 20530.

Dated: August 14, 2000.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–21016 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Visa Waiver Pilot Program Carrier Agreement.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 15, 2000 at 65 FR 31014, allowing for an emergency OMB review and approval and a 60-day public comment period. No comment were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 18, 2000. This process is conducted in accordance with 5 CFR 1302.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Department of Justice Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530; 202–395–4718.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed

collection of information, including the validity of the methodology and assumptions used;

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Visa Waiver Pilot Program Carrier Agreement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–775, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The agreement between a transportation company and the United States is needed to assure the United States that the transportation company will remain responsible for the aliens that it transports to the United States under the Visa Waiver Pilot Program (8 U.S.C. 1187).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: August 14, 2000.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–21017 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP)–1292]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, Justice.

ACTION: Notice of meeting.

SUMMARY: Announcement of the Coordinating Council on Juvenile Justice and Delinquency Prevention meeting.

DATES: The advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet in Washington, DC on Wednesday, October 11, 2000, from 1 p.m. to 3 p.m., ET.

ADDRESSES: The meeting will take place at the U.S. Department of Justice, Office of Justice Programs, Main Conference Room, 3rd Floor, 810 Seventh Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Bob Altman, Program Manager, Juvenile Justice Resource Center at (301) 519–5721. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Coordinating Council, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. § 5601 *et seq.*). This meeting will be open to the public. Members of the public who wish to attend the meeting should notify the Juvenile Justice Resource Center at the number listed above by 5 p.m., ET, on Wednesday, September 27, 2000. For security purposes, picture identification will be required.

Dated: August 15, 2000. —

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 00–21102 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–18–U

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and superseding decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used

in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Rhode Island
RI000001 (Feb. 11, 2000)

Volume II

Virginia
VA000018 (Feb. 11, 2000)
VA000022 (Feb. 11, 2000)
VA000023 (Feb. 11, 2000)
VA000039 (Feb. 11, 2000)
VA000046 (Feb. 11, 2000)
VA000085 (Feb. 11, 2000)
VA000087 (Feb. 11, 2000)
VA000088 (Feb. 11, 2000)

Volume III

Georgia
GA000003 (Feb. 11, 2000)
GA000022 (Feb. 11, 2000)
GA000032 (Feb. 11, 2000)
GA000036 (Feb. 11, 2000)
GA000053 (Feb. 11, 2000)
GA000073 (Feb. 11, 2000)
GA000084 (Feb. 11, 2000)
GA000085 (Feb. 11, 2000)
GA000086 (Feb. 11, 2000)
GA000087 (Feb. 11, 2000)
GA000088 (Feb. 11, 2000)
Mississippi
MS000001 (Feb. 11, 2000)
MS000003 (Feb. 11, 2000)

Volume IV

Illinois
IL000008 (Feb. 11, 2000)
IL000009 (Feb. 11, 2000)
Michigan
MI000060 (Feb. 11, 2000)
MI000062 (Feb. 11, 2000)
MI000063 (Feb. 11, 2000)
MI000064 (Feb. 11, 2000)
MI000066 (Feb. 11, 2000)
MI000067 (Feb. 11, 2000)
MI000068 (Feb. 11, 2000)
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MI000071 (Feb. 11, 2000)
MI000072 (Feb. 11, 2000)
MI000073 (Feb. 11, 2000)
MI000074 (Feb. 11, 2000)
MI000075 (Feb. 11, 2000)
Minnesota
MN000007 (Feb. 11, 2000)
MN000008 (Feb. 11, 2000)
MN000015 (Feb. 11, 2000)
MN000027 (Feb. 11, 2000)
MN000058 (Feb. 11, 2000)
MN000059 (Feb. 11, 2000)
MN000061 (Feb. 11, 2000)
Wisconsin
WI000003 (Feb. 11, 2000)
WI000019 (Feb. 11, 2000)

Volume V

Arkansas
AR000001 (Feb. 11, 2000)
AR000003 (Feb. 11, 2000)
AR000008 (Feb. 11, 2000)
AR000023 (Feb. 11, 2000)
Iowa
IA000003 (Feb. 11, 2000)
IA000080 (Feb. 11, 2000)
Louisiana
LA000001 (Feb. 11, 2000)
LA000005 (Feb. 11, 2000)
LA000012 (Feb. 11, 2000)
LA000015 (Feb. 11, 2000)
LA000018 (Feb. 11, 2000)
LA000040 (Feb. 11, 2000)
LA000046 (Feb. 11, 2000)
LA000047 (Feb. 11, 2000)
LA000048 (Feb. 11, 2000)
LA000052 (Feb. 11, 2000)
LA000054 (Feb. 11, 2000)
Nebraska
NE000001 (Feb. 11, 2000)
NE000003 (Feb. 11, 2000)
NE000005 (Feb. 11, 2000)
NE000010 (Feb. 11, 2000)
NE000011 (Feb. 11, 2000)
NE000019 (Feb. 11, 2000)
NE000025 (Feb. 11, 2000)
NE000044 (Feb. 11, 2000)

Volume VI

Alaska
AK000001 (Feb. 11, 2000)
Idaho
ID000001 (Feb. 11, 2000)
ID000002 (Feb. 11, 2000)
ID000003 (Feb. 11, 2000)
ID000004 (Feb. 11, 2000)
ID000013 (Feb. 11, 2000)
ID000014 (Feb. 11, 2000)
Montana
MT000003 (Feb. 11, 2000)
MT000004 (Feb. 11, 2000)
MT000005 (Feb. 11, 2000)
MT000006 (Feb. 11, 2000)
MT000008 (Feb. 11, 2000)
Oregon
OR000001 (Feb. 11, 2000)
OR000017 (Feb. 11, 2000)
South Dakota
SD000017 (Feb. 11, 2000)
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California
CA000009 (Feb. 11, 2000)
CA000028 (Feb. 11, 2000)
CA000029 (Feb. 11, 2000)
CA000030 (Feb. 11, 2000)
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CA000032 (Feb. 11, 2000)
CA000033 (Feb. 11, 2000)
CA000034 (Feb. 11, 2000)
CA000035 (Feb. 11, 2000)
CA000036 (Feb. 11, 2000)
CA000037 (Feb. 11, 2000)
CA000038 (Feb. 11, 2000)
CA000039 (Feb. 11, 2000)
CA000040 (Feb. 11, 2000)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 10th day of August, 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–20771 Filed 8–17–00; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

Revised Meeting Notice; Reactor Safeguard Advisory Committee

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 August 29–September 1, 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).

Tuesday, August 29, 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.–10:00 A.M.: Proposed Risk-Informed Revisions to 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 proposed NRC framework document for risk-informing the technical requirements of 10 CFR Part 50, proposed revisions to 10 CFR 50.44 concerning combustible gas control systems, and advance notice of proposed rulemaking (10 CFR 50.69 and Appendix T).

10:15 A.M.–11:15 A.M.: Causes and Significance of Design Basis Issues (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding a study of design basis issues and trends.

11:15 A.M.–12:00 Noon: Proposed Final Regulatory Guide (DG–1093) Endorsing NEI 97–04 Document on Design Bases (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final version of the Regulatory Guide.

1:00 P.M.—1:45 P.M.: AP1000 Standard Plant Design (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Westinghouse Electric Company regarding issues identified during AP1000 pre-application review (Phase 1).

1:45 P.M.—3:15 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.

3:15 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 Assessment of the Quality of PRAs.

Wednesday, August 30, 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.: Performance-Based Regulatory Initiatives (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding a Commission paper associated with performance-based regulatory initiatives.

9:30 A.M.–10:15 A.M.: License Renewal Guidance Documents (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the contents of the proposed Standard Review Plan, Generic Aging Lessons Learned Report, and a Regulatory Guide and associated NEI guidance documents.

10:30 A.M.—12:00 Noon: Operating Events at Indian Point Nuclear Power Plant Unit 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the licensee regarding the events, noted below, that occurred at the Indian Point Unit 2 Nuclear Power Plant and the associated staff findings, conclusions, and recommendations resulting from the evaluations of these events: (1) February 15, 2000 steam generator tube rupture event and (2) August 31, 1999 event involving reactor trip and loss of all off-site power.

1:00 P.M.–1:30 P.M.: Siemens SRELAP–5 Best-Estimate Small-Break LOCA Code (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Siemens Corporation regarding the Siemens SRELAP–5 best-estimate code for application to analysis of transients and small-break loss of coolant accident (LOCA). [NOTE: A portion of this session may be closed to discuss Siemens Corporation's proprietary information pursuant to 5 U.S.C. 552b(c)(4)].

1:30 P.M.–2:30 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.

2:30 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Thursday, August 31, 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.–8:45 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.

8:45 A.M.–9:45 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.

9:45 A.M.–10:45 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.

11:00 A.M.–12:00 Noon: 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.

1:00 P.M.–4:00 P.M.: Meeting with the NRC Commissioners on October 6, 2000 (Open)—The Committee will discuss and prepare topics for meeting with the Commissioners scheduled for October 6, 2000.

4:00 P.M.–6:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Friday, September 1, 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.–1:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

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. Howard J. Larson, 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. Howard J. Larson 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. Howard J. Larson 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. Howard J. Larson (telephone 301/415–6805), 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: August 14, 2000.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 00–21061 Filed 8–17–00; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Evidence for Application of Overall Minimum.

(2) *Form(s) submitted:* G–319, G–320.

(3) *OMB Number:* 3220–083.

(4) *Expiration date of current OMB clearance:* 10/31/2000.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 290.

(8) *Total annual responses:* 121.

(9) *Total annual reporting hours:* 121.

(10) *Collection description:* Under section 3(f)(3) of the Railroad Retirement Act, the total monthly benefit payments payable to a railroad employee and his family are guaranteed to be no less than the amount which would be payable if the employee's railroad service had been covered by the Social Security Act.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–21068 Filed 8–17–00; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Student Beneficiary Monitoring.

(2) *Form(s) submitted:* G–315, G–315a, G–315a.1.

(3) *OMB Number:* 3220–0123.

(4) *Expiration date of current OMB clearance:* 10/31/2000.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 1,230.

(8) *Total annual responses:* 1,230.

(9) *Total annual reporting hours:* 121.

(10) *Collection description:* Under the Railroad Retirement Act (RRA), a student benefit is not payable if the student ceases full-time school attendance, marries, works in the railroad industry, has excessive earnings or attains the upper age limit under the RRA. The report obtains information to be used in determining if benefits should cease or be reduced.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–21069 Filed 8–17–00; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27211]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

August 11, 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 September 5, 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 September 5, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Consolidated Edison, Inc., and Northeast Utilities (70–9613)

Consolidated Edison, Inc. (''CEI''), 4 Irving Place, New York, New York 10003, a public utility holding company claiming exemption from registration under section 3(a)(1) by rule 2 under the Act, and Northeast Utilities, 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, a registered holding company (collectively, ''Applicants''), have filed a joint application-declaration under sections 6(a), 7, 8, 9(a), 10, 11 and rule 54 under the Act.

Summary of Proposal

As described in more detail below, the Applicants seek authorization for Consolidated Edison, Inc. (''New CEI''),[1] a Delaware corporation and a wholly owned subsidiary of CEI, to acquire all of the issued and outstanding stock of NU. Under the proposed transactions, Orange and Rockland Utilities, Inc. (''O&R''), Consolidated Edison Company of New York (''CECONY''), NU, and certain nonutility subsidiaries will become direct subsidiaries of New CEI. After the merger, the Applicants state that New CEI will register as a public utility holding company under section 5 of the Act.[2] The Applicants seek authorization for New CEI to operate as a combination electric and gas utility holding company. In addition, the Applicants seek authorization for New CEI to retain O&R as an exempt electric and gas subsidiary public utility holding company,[3] NU as a subsidiary registered public utility holding company, and Yankee Energy System, Inc. (''YES'') as a subsidiary exempt gas utility holding company of NU, New CEI also seeks to retain CEI's interests in its utility and nonutility activities, businesses and investments and to acquire and retain NU's nonutility activities, businesses and investments.

The Proposed Merger

CEI, NU, New CEI, and N Acquisition LLC, a Massachusetts limited liability company, which is directly and indirectly owned by New CEI,[4] have entered into an amended and restated plan of merger dated as of January 11, 2000 (''Merger Agreement''). Under the Merger Agreement, CEI will be merged with and into New CEI, with New CEI being the surviving entity, and NU will merge with N Acquisition, with NU being the surviving entity (''Merger''). Upon consummation of the Merger, New CEI will own all of the assets of CEI and NU will be a wholly owned subsidiary of New CEI.

The Merger Agreement provides that each CEI common share outstanding immediately prior to the closing of the Merger will, at closing, be converted into one share of New CEI common stock. Any CEI common shares held by CEI as treasury shares or owned by New CEI will be canceled without payment for those shares.

The Merger Agreement provides that NU shareholders may elect to receive, for each NU common share that they own, a fraction (the ''Exchange Ratio'') of a share of New CEI common stock equal to a numerator of $25.00 divided by the weighted average trading price of a CEI common share over twenty trading days randomly selected from the forty trading days ending five trading days prior to the closing. However, the CEI share price used to calculate the Exchange Ratio will not be less than $36.00 nor greater than $46.000. Also, $1.00 will be added to the numerator if, prior to the closing of the Merger, certain NU subsidiaries enter into binding agreements to sell to one or more non-affiliated third parties their respective interests in the Millstone Station Unit 2 and Millstone Station Unit 3 nuclear power plant assets, in accordance, in all material respects, with applicable law (''Divestiture Condition'').[5] An additional $.0034 will be added to the numerator of the Exchange Ratio for each day after August 5, 2000 the Merger fails to close through the day prior to the closing of the Merger.

In the alternative, holders of NU common shares may elect to receive cash consideration equal to $25.00 per NU common share. An additional $1.00 per share will be payable, if, prior to the closing of the Merger, NU satisfies the Divestiture Condition and an additional $.0034 per share will be payable for every day after August 5, 2000 through the day prior to the closing of the Merger.

Election for stock consideration or cash consideration will be subject to allocation and proration procedures. If greater than fifty percent of the holders of shares of NU elect to receive New CEI common stock, these holders who elected to receive New CEI stock may instead receive part of his or her consideration in the form of cash. If greater than fifty percent of the holders of shares of NU elect to receive cash, those holders who elected to receive cash may instead receive part of his or her consideration in the form of shares.

As a result of the Merger, the post-merger New CEI system will have *pro forma* assets of approximately $27.816

[1] New CEI was originally incorporated as CWB Holdings, Inc.

[2] The Applicants and certain of their subsidiaries have also filed in S.E.C. file No. 70–9711 an application-declaration related to the financing of the proposed New CEI registered holding company system. A notice of that filing will be issued in the future.

[3] *See Rockland Light and Power Co.,* 1 S.E.C. 354 (1936) (granting an exemption under section 3(a)(2)). Rockland Light and Power Company subsequently became O&R; and Holding Company Act Release No. 27021 (May 13, 1999) (authorizing CEI's acquisition of O&R and continuation of O&R's exemption under section 3(a)(2)).

[4] New CEI owns 99% of N Acquisition and X Holding Company LLC (X Holding), a Massachusetts limited liability company, owns 1% of N Acquisition. New CEI owns 99% of X Holding and N Acquisition owns 1% of X Holding.

[5] If the Merger closes on or prior to December 31, 2000, and the Divestiture Condition has not been satisfied, but the Divestiture Condition is met after the Merger closes and on or prior to December 31, 2000, than each NU shareholder (whether the shareholder elected stock or cash consideration) will be entitled to $1.00 per converted NU common share to be paid in cash by New CEI.

billion for the twelve months ended March 31, 2000 and *pro forma* total operating revenues of approximately $13.134 billion, for the same period. If approved, New CEI will be an electric and gas distribution utility with over five million electric customers and over 1.4 million natural gas customers.

After the Merger is consummated, New CEI will register with the Commission as a public utility holding company under section 5 of the Act. New CEI proposes to retain O&R as a subsidiary exempt holding company, NU as a subsidiary registered holding company and YES as a subsidiary exempt holding company of NU.

The Merger will be accounted for using the purchase method of accounting and will result in the creation of approximately $1.6 billion of goodwill. New CEI will not push down the goodwill to NU or its subsidiaries.[6]

Parties ot the Merger

CEI and its Subsidiaries

CEI is a public utility holding company for its two utilities, Consolidated Edison Company of New York, Inc. (''CECONY'') and Orange and Rockland Utilities, Inc. (''O & R''), and certain nonutility subsidiaries.

CECONY

CECONY, a New York Corporation incorporated in 1884, provides franchised retail electric service to over three million customers and gas to over one million customers in New York City and Westchester County. It has a service area of about 660 square miles and approximately 2,148 MW of generating assets, including the 1,000 MW the Indian Point 2 nuclear generating facility. As of December 31, 1999, CECONY's transmission system had approximately 430 miles of overhead circuits operating at 138, 230, 345 and 500 kilovolts and approximately 380 miles of underground circuits operating at 138 and 345 kilovolts. The company's transmission facilities are located in New York City and Westchester, Orange, Rockland, Putnam and Dutchess counties in New York State. At December 31, 1999, CECONY's distribution system had approximately 88,200 miles of underground distribution lines and approximately 32,500 miles of overhead distribution lines. Natural gas is delivered by pipeline to Con Edison of New York at various points in its service territory and is distributed to customers by the company through approximately 4,200 miles of mains and 366,000 service lines. CECONY also supplies steam service to customers in parts of Manhattan. As of December 31, 1999, CECONY had 13,025 employees. CECONY is regulated by the New York Public Service Commission (''NYSC'') as well as the Federal Energy Regulatory Commission (''FERC'') and the Nuclear Regulatory Commission (''NRC''). CECONY has three wholly owned subsidiaries, Davids Island Development Corporation (''Davids Island''), and D.C.K. Management Corporation (''DCK''), and Steam House Leasing, LLC (''Steam House''). CECONY also owns a 28.8 percent interest in Honeoye Storage Corporation (''Honeoye Storage'').

Davids Island, a New York Corporation, owns real property acquired as a possible site for an electric generating plant in Dutchess and Columbia Counties in New York State and is in the process of disposing of the property.

DCK, a New York Corporation, owns real property in New York City.

Steam House leases a steam generating plant that produces steam for CECONY's steam distribution business.

Honeoye Storage, a New York Corporation, owns and operates a gas storage facility in upstate New York.

In accordance with its divestiture plan for its fossil-fueled electric generation in New York City (''Divestiture Plan''), which the NYPSC approved, CECONY has divested almost all of its in-City electric generation to unaffiliated third parties. CECONY retains about 460 MW of generating capacity that produces both electricity and steam for its steam distribution system in Manhattan and some small combustion turbines located in various facilities in New York City and Westchester County.

CEI's Nonutility Subsidiaries

CEI[7] also engages in other nonutility businesses through four directly owned nonutility subsidiaries, Consolidated Edison Solutions (''CES''), Consolidated Edison Development, Inc. (''CEDI''),[8] Consolidated Edison Energy, Inc. (''CEEI''), and Consolidated Edison Communications (''CECI''), which are described below:

CES is organized in New York and provides wholesale and retail energy and related services. CES has a 50 percent interest in Inventory Management & Distribution Company, Inc. (''IMD''), an energy marketing firm organized in Delaware, which is in the process of being dissolved. CES also has a 14.4 percent interest in Remote Source Lighting International, Inc. (''RSLI''), a lighting technology company organized in Delaware.

CEDI, organized in New York, is in the business of investing in foreign and domestic energy and other infrastructure projects and the marketing of CECONY's technical services. CEDI has the following direct subsidiaries: Con Edison Development Guatemala, Ltd. (''CED Guatemala''), Consolidated Edison Leasing, Inc. (''CEI Leasing''), Con Edison Leasing, LLC (''Con Ed Leasing''), CED Ada, Inc. (''CED Ada''), Carson Acquisition, Inc. (''Carson Acquisition''), CED/SCS Newington, LLC, (''CED/SCS''), CED GTM 1, LLC (''CED GTM 1''), Consolidated Edison Energy Massachusetts, Inc. (''CEEMI''), CED Generation Holding Company, LLC (''CED Generation''), CEDST, LLC (''CEDST''), Con Edison Development Acquisition and Finance, Ltd. (''CEDAF''), and Con Edison El Salvador One, Ltd (CEES), which are discussed below:

CED Guatemala is organized under the laws of the Cayman Islands. It is in the business of investing in energy projects in Central America.

CEI Leasing, a Delaware corporation, has an investment in a leveraged lease transaction in a power plant in the Netherlands.

Con Ed Leasing, a Delaware limited liability company, has an investment in a leveraged lease transaction in a gas distribution system in the Netherlands.

CED Ada, a Delaware corporation, owns an approximate 96 percent interest in CED/DELTA Ada, LLC, (''CED/DELTA''), a Delaware limited liability company, which owns a 49.5 percent limited partnership interest and a 0.5 percent general partnership interest in Ada Cogeneration Limited Partnership, (''ACLP''), a Michigan limited partnership. ACLP owns a 30 MW gas-fired qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978 (''PURPA'')[9] in Ada, Michigan.

Carson Acquisition, Inc. (''CAI''), a Delaware corporation, which formerly owned an interest in a 42 MW qualifying cogeneration facility under PURPA in Carson, California, is presently inactive.

CEI owns approximately 95% of CED/SCS, a Delaware limited liability

[6] Staff Accounting Bulletin 54, Topic 5.J. question 2 (grants an exception to push down accounting for companies with significant public debt or preferred stock.)

[7] CEI's unregulated subsidiaries own approximately 608 MW of additional generating assets.

[8] CEDI has nine direct subsidiaries which are discussed below.

[9] Pub. L. No. 95–617, 92 Stat. 3117 (codified in scattered sections of 16 USC).

company. CED/SCS owns 100% of Newington Energy, LLC, a Delaware limited liability company, which is currently developing a 525 MW electric generating facility in Newington, New Hampshire.

CED GTM1, a Delaware limited liability company, owns an approximate one-half interest in GTM Energy LLC, a Delaware limited liability company, which was formed to pursue an opportunity to develop an electric generating facility in New York City. It has recently been decided to discontinue the pursuit of this opportunity.

CEEMI is a Delaware company which was established for the purpose of owning and operating 290 MW of generation facilities acquired from Western Massachusetts Electric Company, a wholly-owned subsidiary of NU, in July 1999.

CED Generation is a Delaware company which indirectly owns and manages a 236 MW power plant located in Lakewood, New Jersey.

CEDST is a Delaware company which owns 100% of CED 42, LLC, both formed to invest in low-income housing transactions to achieve tax credits for the system.

CEDAF is organized under the laws of the Cayman Islands. It was organized in connection with a potential investment in Guatemala, which was never made. At present, CEDAF has no assets or operations and is inactive.

CEES is organized under the laws of the Cayman Islands. CEES was organized in connection with a potential investment in El Salvador, which was never made. At present, CEES has no assets or operations and is inactive.

CEEI is a wholly-owned subsidiary of CEI, organized in New York to invest in, operate and market the output of electric energy supply facilities in the United States and to provide specialized wholesale energy services in the electric power and natural gas markets.

CECI, a wholly owned subsidiary of CEI, was organized in New York in late 1997 to own, operate or invest in facilities used for telecommunications or otherwise to compete in the telecommunications industry. On November 23, 1999, CECI agreed to acquire a 10.75% stock interest in Northeast Optic Network, Inc. (''NEON''), a provider of broadband telecommunications services in the northeast United States, in exchange for certain telecommunication facilities and rights of way in New York City. NU owns approximately 30% of NEON's common shares.

O&R

O&R, a New York Corporation incorporated in 1926, is a wholly owned utility subsidiary of CEI and an electric and gas public utility holding company currently exempt from registration by order under section 3(a)(2) of the Act. After the merger is consummated, O&R proposes to remain an exempt holding company under the Act. Along with its public utility subsidiaries, O&R supplies franchised retail electricity to approximately 275,640 customers and gas to approximately 117,283 customers in it service territory that covers approximately 1,350 square mites. The eastern boundary of the service area extends along the west bank of the Hudson, directly across the river from the service territory of CECONY. O&R has two utility subsidiaries: Rockland Electric Company (''RECO'') and Pike County Light and Power Company (''Pike''). As of December 31, 1999, O&R and its utility subsidiaries owned, in whole or in part, transmission and distribution facilities which include 601 circuit miles of transmission lines, and 5,046 pole miles of overhead distribution lines and 2,493 miles of underground distribution lines. O&R and Pike own their gas distribution systems, which include 1,780 miles of mains. As of December 31, 1999, O&R had 1,001 employees. Neither RECO nor Pike have employees.

O&R directly owns three nonutility subsidiaries: Clove Development Corporation (''Clove''); O&R Energy Development, Inc. (''O&R Energy''); and other O&R Development, Inc. (''O&R Development''). O&R indirectly owns other nonutility subsidiaries, which are discussed below. O&R is regulated by the NYPSC.

RECO, a New Jersey corporation incorporated in 1899, supplies electricity to parts of New Jersey. RECO directly and indirectly owns several nonutility subsidiaries, as discussed below. RECO's retail rates and certain other matters are subject to regulation by the New Jersey Board of Public Utilities (''NJBPU'').

Pike, a Pennsylvania corporation incorporated in 1914, supplies electricity and gas to the northeastern corner of Pike County in Pennsylvania. Pike's retail rates and certain other matters are subject to regulation by the Pennsylvania Public Utility Commission (''PaPUC'').

O&R, Pike and RECO also are subject to regulation by FERC.

In accordance with its divestiture plan (''Divestiture Plan'') filed under NYPSC divestiture orders, O&R sold all of its electric generating facilities in July 1999.

O&R engages in nonutility businesses through three directly owned subsidiaries: Clove, a New York Corporation, that owns real estate, located primarily in the Mongaup Valley region of Sullivan County, New York; O&R Energy, a Delaware corporation, that owns real estate that is being marketed for sale and was formed to promote industrial and corporate development in O&R's service territory by providing improved sites and buildings; and (3) O&R Development, Inc., a Delaware corporation, that is inactive.

RECO engages in nonutility businesses through its directly and indirectly owned subsidiaries, Enserve Holdings, Inc. (''Enserve''), Saddle River Holdings Corp. (''SRH''), Palisades Energy Services, Inc. (''Palisades Energy''), Compass Resources, Inc. (''Compass''), NORSTAR Holdings, Inc. (''NHI''), NORSTAR Management, Inc. (''NMI''), and Millbrook Holdings, Inc. (''Millbrook''): Enserve is a wholly owned nonutility holding company subsidiary of RECO and a Delaware corporation. It wholly owns Palisades Energy and Compass which are Delaware inactive corporations. SRH is a wholly owned nonutility holding company subsidiary of RECO and a Delaware corporation. NHI is a wholly owned nonutility holding company subsidiary of SRH and a Delaware corporation. NHI wholly owns Millbrook, a Delaware corporation. Millbrook holds a leasehold interest in nonutility real estate in Morris County, New Jersey. NHI also wholly owns NMI, a Delaware Corporation. NMI is the sole general partner of a Delaware limited partnership, NORSTAR Energy Limited Partnership (''NORSTAR Partnership''), a gas marketing company that is discontinuing operation, of which NHI is the sole limited partner. NORSTAR Partnership is the majority owner of the NORSTAR Energy Pipeline Company, LLC, a Delaware limited liability company, which is inactive.

CECONY and O&R (including RECO and Pike) are transmission owner market participants in the New York Independent System Operator (''NYISO'') power pool.

For the twelve month period ending March 31, 2000, CEI had approximately $8 billion in consolidated operating revenues. CEI's common stock is listed on the New York Stock Exchange. As of March 31, 2000, CEI had outstanding 211,959,922 common shares ($.10 par value per share).

NU and Subsidiaries

NU, a Massachusetts business trust, is a registered public utility company that is the parent of a number of companies comprising the NU system (''System'') and is not itself an operating company. NU serves approximately 30 percent of New England's electric needs and had 9,099 employees as of December 31, 1999. NU owns all of the outstanding shares of common stock of five electric utility operating subsidiaries: The Connecticut Light and Power Company (''CL&P''), Public Service Company of New Hampshire (''PSNH''), Western Massachusetts Electric Company (''WMECO''), Holyoke Water Power Company (''HWP''), and North Atlantic Energy Corporation (''NAEC'').[10] NU has traditionally furnished franchised retail electric service in Connecticut, New Hampshire and western Massachusetts through CL&P, PSNH and WMECO. NU has also furnished retail electric service to a limited number of customers through HWP, doing business in and around Holyoke, Massachusetts. In addition to their retail electric service businesses, CL&P PSNH, WMECO and HWP (including its wholly owned subsidiary Holyoke Power and Electric Company (''HPEC'')) together furnish wholesale electric service to various municipalities and other utilities throughout the Northeast. The NU System is also engaged in the retail distribution of natural gas through its directly owned Yankee Energy System, Inc. (''YES'').[11] YES directly owns Yankee Gas Service Company (''Yankee Gas''). Yankee Gas purchases, distributes, and sells natural gas to residential customers in Connecticut. NU also wholly owns six nonutility businesses: Northeast Utilities Service Company (''NUSCO''), North Atlantic Energy Service (''NAESCO''), Northeast Nuclear Energy Company (''NNECO''), Rocky River Realty Company (''Rocky River''), The Quinnehtuk Company (''Quinnehtuk'') and NU Enterprises (''NUEI'').

The four electric utility and one gas utility operating subsidiaries of NU are each described below:

CL&P, a corporation organized under the laws of Connecticut, furnishes electric retail delivery franchise service to approximately 1.12 million customers through its service territory of 149 cities and towns in Connecticut. As of December 31, 1999, CL&P owned 1,286 pole miles (1,638 circuit miles) of overhead transmission lines and 36 bank miles (167.8 cable miles) of underground transmission lines, and 18,202 pole miles of overhead and 746 bank miles (7,271 cable miles) of underground distribution lines. CL&P also owns an 81% interest in the 870 MW Millstone 2 nuclear generating facility (''Millstone 2''), approximately 53% of the 1,154 MW Millstone 3 nuclear generating facility (''Millstone 3'') located in Waterford, Connecticut, and approximately 4% of the 1,148 MW Seabrook nuclear generating facility (''Seabrook'') located in Seabrook, New Hampshire.

PSNH, a New Hampshire corporation, furnishes retail delivery franchise service to 422,000 customers through its service territory of 198 towns and cities in New Hampshire. Properties, Inc. is a wholly owned subsidiary of PSNH. As of December 31, 1999, PSNH owned approximately 974 pole miles (974 circuit miles) of overhead transmission lines and 11,188 pole miles of overhead distribution lines and 1102 bank miles (1102 cable miles) of underground distribution lines.

WMECO, a Massachusetts corporation, provides electric retail delivery to approximately 198,012 retain franchise customers through its service territory of 59 cities and towns in Massachusetts. As of December 31, 1999, WMECO owned approximately 342 pole miles of overhead transmission lines (446 circuit miles) and 8 bank miles (28 cable miles) of underground transmission lines. WMECO also owns 3,660 pole miles of overhead distribution lines and 267 bank miles (2,416 cable miles) of underground distribution lines. WMECO also owns a 19% interest in Millstone 2 and approximately 13% in Millstone 3.

Restructuring legislation in New Hampshire, Massachusetts and Connecticut now requires PSNH, WMECO and CL&P, respectively, to separate the distribution and transmission functions of their business from the generation function by mandating the sale of fossil fuel and hydroelectric generation assets.

In addition to regulation by the respective state commissions of their states of operation, CL&P, WMECO and PSNH are also regulated by FERC and the NRC.

HWP, a Massachusetts corporation, serves 32 retail customers in Holyoke, Massachusetts under contracts regulated by FERC. HWP wholly owns HPEC. HWP owns 200 MW of generating assets, 13.3 pole miles (14.5 circuit miles) of overhead transmission lines, 18.47 pole miles of overhead distribution lines and 2.24 bank miles (4.3 cable miles) of underground distribution lines.

NAEC is a special-purpose operating subsidiary of NU, organized under the laws of New Hampshire, that owns a 35.98 percent interest in Seabrook. NAEC sells its share of the capacity and output from Seabrook to PSNH under two life-of-unit, full-cost recovery contracts. These contracts are regulated by FERC.

YES is a public utility holding company incorporated in Connecticut in 1988. In addition to being the holding company for Yankee Gas, it is also the holding company for four nonutility subsidiaries, NorConn Properties, Inc. (''NorConn''), Yankee Energy Financial Services Company (''Yankee Financial''), Yankee Energy Services Company (''YESCo'') and R.M. Services, Inc. (''RMS''). These companies are referred to collectively as ''the Yankee Energy System.''

Yankee Gas, a gas utility company, purchases, distributes and sells natural gas to approximately 185,000 residential, commercial and industrial users in Connecticut. Its service territory consists of 69 cities and towns, and covers approximately 1,995 square miles, all in Connecticut and all within the service territory of CL&P.[12] In addition to being regulated by the Connecticut Department of Public Utility Control, Yankee Gas is also regulated by FERC.

NorConn, a Connecticut corporation, was formed in 1988 to hold property and facilities of the Yankee Energy System.

Yankee Financial, a Connecticut corporation incorporated in 1992, provides customers with financing for energy equipment installments.

YESCo, a Connecticut corporation, provides a wide range of energy-related services for its customers. Through its YESCo Controls division, such services include comprehensive building automation with engineeering, installation and maintenance of building control systems. Through its YESCo Mechanical Services division, customers are provided comprehensive heating, ventilation and air-conditioning, boiler and refrigeration equipment services and installation.

[10] The Commission has found that NU's electric companies operate as an integrated system. *See In the Matter of Northeast Utilities*, 42 SEC 963.

[11] By order dated January 31, 2000, *Northeast Utilities*, (Holding Co. Act Release No. 27127), the Commission approved NU's acquisition of Yankee Energy System, Inc. (''YES''). YES is the holding company of Yankee Gas and is currently claiming an exception from registration under section 3(a)(1) of the Act by rule 2.

[12] Yankee Gas' assets include distribution lines, meters, pumps, valves and pressure and flow controllers. Yankee Gas owns approximately 2,820 miles of distribution mains, 133,033 service lines, and 185,000 active meters for customer use, all located in Connecticut.

RMS, a Connecticut corporation, was formed in 1994 to provide debt collection services to utilities and other businesses nationwide.

NU also has six wholly owned nonutility subsidiaries:

NUSCO is a wholly owned subsidiary of NU and provides centralized accounting, administrative, information resources, engineering, financial, legal, operational, planning, purchasing and other services to the NU System companies.

NAESCO is a wholly owned subsidiary of NU. NAESCO has operational responsibility for Seabrook.

NNECO is a wholly owned subsidiary of NU, NNECO acts as an agent for the System companies and other New England utilities in operating the Millstone Nuclear generating facilities, which are located in Waterford, Connecticut.

Rocky River and Quinnehtuk, both wholly owned subsidiaries of NU, and Properties, Inc. construct, acquire, or lease some of the property and facilities used by the NU System companies.

NU Enterprises, Inc. (''NUEI''), a wholly owned subsidiary of NU, acts as the holding company for NU's nonutility businesses.

Northeast Generation Company (''NGC''), a subsidiary of NUEI, was formed to acquire and manage generating facilities.

Northeast Generation Services Company, another subsidiary of NUEI, was formed to acquire and manage generating facilities.

Northeast Generation Services Company, another subsidiary of NUEI, was formed to provide services to the electric generation market as well as to large commercial and industrial customers in the Northeast.

In January of 1999, NU transferred to NUEI the stock of three of its wholly owned subsidiaries: Select Energy, Inc., HEC, Inc. and Mode I Communications, Inc. These companies engage, either directly or indirectly through subsidiaries, in a variety of energy-related and telecommunications activities, primarily in the unregulated energy retail and wholesale commodity, marketing and services fields.

Select Energy Portland Pipeline, Inc., a subsidiary of NUEI, and was formed as a single purpose rule 58 subsidiary to hold a 5% partnership interest in the Portland Natural Gas Transmission System Partnership, the partnership that owns and operates the Portland Natural Gas Transmission Pipeline.

The NU electric operating companies are members of the New England Power Pool (''NEPOOL'' and have transferred control over most of their transmission facilities to Independent System Operator-New England. NEPOOL is a cooperative association of the major electric utilities operating in the New England region.

For the twelve month period ending March 31, 2000 NU had approximately $4.8 billion in consolidated operating revenues. The Common Shares of NU are listed on the New York Stock Exchange. As of March 31, 2000, NU had approximately 143,150,550 shares outstanding $5.50 par value per share).

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–21038 Filed 8–17–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43147; File No. SR–NASD–00–11]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc., Amending Its Mediation Fee Structure

August 11, 2000.

I. Introduction

On March 9, 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''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain aspects of NASD Regulation's mediation program. The proposed rule change was published for comment in the **Federal Register** on May 24, 2000[3] and no comments were received. This order approves the proposed rule change.

II. Description of the Proposal

NASD Regulation proposes to amend its Code of Arbitration Procedure (''Code'') to increase revenue by adjusting the mediation fee schedules and to permit parties to agree to stay arbitrations in order to mediate their claims. The proposed rule change also would eliminate the adjournment fees when parties conduct their mediation through NASD Regulation. NASD Regulation believes that the proposal would encourage the use of mediation and be a first step toward making the NASD Regulation mediation program financially self-sustaining.

NASD Regulation initiated a mediation program in 1995 to provide an additional dispute resolution option for parties.[4] According to NASD Regulation, the goal of the mediation program is to provide public customers, member firms, and associated persons with an alternative and effective means of resolving their disputes. Since its inception in 1995, over 3,500 cases have been submitted to the mediation program. By 1999, parties in twenty percent of all arbitration cases filed with NASD Regulation used mediation to help resolve their disputes. NASD Regulation believes that a settlement that results from mediation, rather than arbitration or litigation, often saves the parties substantial time and expense.

Summary of Proposal

The mediation program is currently subsidized. Because the mediation program has continued to grow steadily since its inception. NASD Regulation believes that this is an appropriate time to change the mediation fee structure. The objective of the proposed rule change is to take preliminary steps toward making the mediation program financially self-sustaining while preserving it as a cost-effective alternative to arbitration for parties with claims of any dollar value.

The rules establishing mediation filing fees are currently contained in Rules 10205 and 10332 of the Code, which address intra-industry and customer arbitration fees, respectively. NASD Regulation proposes to delete the provisions relating to mediation fees from the arbitration sections of the Code, and to include them in the Rule 10400 Series that pertains to mediation. NASD Regulation would create a new rule, Rule 10407, entitled ''Mediation Fees.''

The proposed rule change includes three components. First, new Rule 10407(a) would replace the current flat fee with a sliding-scale schedule of fees for cases filed directly in mediation. Second, new Rule 10407(b) would require parties to pay a mediation case filing fee when they choose to use the mediation program after having initiated arbitration. Third, Rule 10403(a) would be changed to make clear that the parties in arbitration can agree to stay

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 42792 (May 17, 2000), 65 FR 33602 (May 24, 2000).

[4] *See* Securities Exchange Act Release No. 35990 (July 19, 1995), 60 FR 38384 (July 26, 1995), (SR–NASD–95–25).

the proceeding in order to mediate their claims.

Mediation Case Filing Fees for Cases Filed Directly in Mediation: Rule 10407(a)

According to NASD Regulation, about 15% of the mediation cases filed annually are filed directly in mediation. NASD Regulation currently charges $150 per party for customer cases and $250 per party for intra-industry cases, regardless of the amount in dispute. These fees are found in Rules 10205(j) and 10332(i). NASD Regulation proposes to replace the flat fee with a sliding scale fee schedule in new Rule 10407(a). The schedule has one column of filing fees for customers and associated persons, and another column for member firms. The filing fees are lowest for the smallest claims but increase as the amount in controversy increases.[5]

Customers and associated persons in mediation whose cases involve up to $25,000 in dispute would be charged only $50, rather than the present filing fee of $150. For claims between $25,000 and $100,000, customers and associated persons would pay a filing fee of $150. When the claim exceeds $100,000, customers and associated persons would pay a $300 filing fee.

Fees also are adjusted for members. Under the proposed rule, for cases up to $25,000 in dispute, members would pay $150, which is the current flat rate for a customer dispute, but is lower than the current $250 flat rate for intra-industry disputes. For claims between $25,000 and $100,000, the charge for members would increase to $300, slightly higher than the current intra-industry rate under the flat fee schedule. For claims exceeding $100,000, the member fee would increase to $500. For all claims, regardless of the amount in dispute, customers and members would pay less under the proposal than the corresponding filing fees for arbitration.

Mediation Case Filing Fees for Cases Initially Filed in Arbitration: Rule 10407(b)

According to NASD Regulation, about 85% of the mediation cases filed annually are first filed in arbitration and later go to mediation. In these cases, NASD Regulation currently waives all mediation case filing fees for the parties, as stated in Rules 10205(j) and 10332(i). NASD Regulation now proposes to charge mediation filing fees to parties choosing mediation after the arbitration case is already filed for cases over $25,000.

According to NASD Regulation, arbitration fees currently cover arbitration case administrative tasks, but they do not cover the expenses of the mediation staff. NASD Regulation believes that imposing a fee would allow them to recover some of the costs incurred by the mediation staff in attempting to move cases from arbitration to mediation. However, consistent with its other efforts to increase the incentives for parties to mediate claims under $25,000, NASD Regulation would not impose any filing fee for converting small cases under the new Rule 10407(b).

Because NASD Regulation would like to continue to encourage members and investors to choose mediation, members' filing fees for these converted cases would be fifty percent less than the fee for a case that is first filed in mediation, and fees for customers would be $50 less. Further, in matters involving more than $100,000 in dispute, the proposed mediation filing fee for members would be equal to the fee for a case that is first filed in mediation.

Mediator Fees and Expenses: Rule 10407(c)

The rule language regarding mediator fees and expenses contained in Rules 10205(j) and 10332(j) will be moved to Rule 10407(c). The rule language would remain unchanged, with one exception. NASD Regulation proposes to delete the final sentence in Rules 10205(j) and 10332(j), respectively, specifying mediator charges. NASD Regulation has found that mediators do not charge the parties fees for ''mediation sessions,'' as indicated in the rule. Rather, mediators charge for the actual hours of the services they provide. Therefore, NASD Regulation proposed to delete the final sentence in Rules 10205(j) and 10332(j) when it moves the other relevant language to new Rule 10407(c).

Staying Arbitration During Mediation: Rule 10403

NASD Regulation proposes to amend Rule 10403 of the Code in two ways. First, NASD proposes to add language to Rule 10403(a) to make it clear that parties who agree to submit a matter for mediation can also agree to stay the arbitration. The parties can do so notwithstanding Rule 10319, which gives arbitrators discretion to stay an arbitration proceeding. NASD Regulation believes that this rule change would benefit the parties to a proceeding by saving them time and money and by relieving them of the problems of proceeding in two arenas at the same time. Moreover, according to NASD Regulation, this change is consistent with the approach of other alternative dispute resolution providers.

Second, NASD Regulation proposes to add a new provision, Rule 10403(b), that encourages the use of the NASD Regulation mediation program. Whenever the mediation is conducted through NASD Regulation, the parties would avoid payment of arbitration adjournment fees.

Conclusion

NASD Regulation estimates that the proposed changes to the mediation fee schedule would generate income of $640,000 on an annual basis, assuming a level number of case filings. These funds would be used to help offset the operational costs of the Mediation Program and to ensure the continuation of this service. In addition, the fee adjustments should add incentives for parties to mediate smaller cases.

In addition to filing this proposed rule change, NASD Regulation has recently instituted another revenue-increasing measure which it believes did not require a change to the Code. Formerly, NASD Regulation charged mediators on the roster of the mediation program a fee of $25 for each hour the mediator billed the parties. Effective April 3, 2000, NASD Regulation eliminated the flat rate in favor of a sliding rate tied to the mediator's hourly compensation. This new fee schedule is designed to encourage mediators to charge lower rates for small claims and to agree to handle some cases *pro bono*.

NASD Regulation has also recently asked its mediators to help reduce the cost of mediation for small cases by agreeing to charge reduced rates to mediate cases involving claims of $25,000 or less. Specifically, it has suggested that mediators agree to charge $50 an hour for mediations where the amount in dispute is less than $25,000. In addition, mediators may set a limit on the number of reduced-fee mediations they will conduct during a year.

Effective Date

The NASD will announce the effective date of the proposed rule change in a Notice to Members, which will be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice of Members announcing Commission approval.

III. Discussion

After careful review, the Commission finds that the proposed rule change is

[5] NASD Regulation currently has a sliding scale schedule in place for arbitration fees. *See* NASD Rules 10205 and 10332.

consistent with the requirements of the Act and the rules and regulations thereunder that govern the NASD.[6] The Commission finds that the proposal is consistent with 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 Commission also finds that the proposal is consistent with Section 15A(b)(5) of the Act,[8] which requires that the rules of an association provide for the equitable allocation of reasonable dues, fees, and other charges among members and other persons using any facility of the association.

The Commission believes that the proposal is consistent with Section 15A(b)(6) of the Act [9] because it provides an alternative and generally less expensive form of dispute resolution. According to NASD Regulation, most mediations are successfully conducted in less than a single day and typically result in lower attorney fees for the parties. Further, parties who use mediation as compared to arbitration may save money by avoiding discovery costs.

In addition, the proposal is consistent with Section 15A(b)(5) of the Act [10] because it is reasonably designed to allow NASD Regulation to recover its costs in administering the mediation program. NASD Regulation represents that the mediation program is subsidized and results in an annual program deficit of $860,000. NASD Regulation estimates that the amended fee schedule will generate annual income of $640,000, and believes that these funds should help offset the operational costs of the mediation program. Most of this new revenue will come from fees imposed on parties who first choose arbitration and then switch to mediation. In the past, these parties were not charged a fee when they switched to mediation, even though NASD Regulation represents that it incurs expenses through these switches. Based on these representations and the fact that parties with small claims will be charged little or no fees to use mediation, the Commission finds that proposal equitably allocates fees among its customers, broker-dealers, and associated persons, and is reasonable under the circumstances.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–00–11) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–21072 Filed 8–17–00; 8:45 am]

BILLING CODE 8010–01–M

[6] In approving this rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78*o*–3(b)(5).

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] 15 U.S.C. 78*o*–3(b)(5).

[11] 15 U.S.C. 78s–(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Request for Comments

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the SSA Reports Clearance Officer and to the OMB Desk Officer at the following addresses:

(OMB), Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.

(SSA), Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

The information collection listed below has been submitted to OMB for clearance. Your comments on the information collection would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

Internet Retirement Insurance Benefit (IRIB) Application—0960–0618. SSA will offer its customers another way to apply for retirement insurance benefits. Currently, applicants for retirement insurance benefits complete a SSA–1, Application for Retirement Insurance Benefits, by telephone or in person with the assistance of a SSA employee. The IRIB application will enable individuals to complete the application on their own electronically over the Internet. The information that SSA collects will be used to determine entitlement to retirement insurance benefits. SSA plans to implement the IRIB application nationally later this year. The respondents are individuals who apply for retirement insurance benefits over the Internet.

Number of Respondents: 139,308.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 46,436 hours.

Dated: August 14, 2000.

Frederick W. Brickenkamp,

SSA Reports Clearance Officer.

[FR Doc. 00–21013 Filed 8–17–00; 8:45 am]

BILLING CODE 4191–02–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Pub. L. 104–13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to the Agency Clearance Officer no later than October 17, 2000.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission, proposal to reinstate with change a previously approved collection for which approval has expired (OMB control number 3316–0062).

Title of Information Collection: TVA Procurement Documents, including Invitation to Bid, Request for Proposal, Request for Quotation, and other related Procurement or Sales Documents.

Frequency of Use: On Occasion.

Type of Affected Public: Individuals or households, businesses or other for-profit, non-profit institutions, small businesses or organizations.

Small Business or Organizations Affected: Yes.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 24,500.

Estimated Total Annual Burden Hours: 50,000.

Estimated Average Burden Hours Per Request: 0.49.

Need For and Use of Information: TVA procures goods and services to fulfill its statutory obligations and sells surplus items to recover a portion of its investment costs. This activity must be conducted in compliance with a variety of applicable laws, regulations, and Executive Orders. Vendors and purchasers who voluntarily seek to contract with TVA are affected.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations, Information Services.

[FR Doc. 00–21071 Filed 8–17–00; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for renewal and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 15, 2000 [FR 65, page 31048]. No comments were received.

DATES: Comments must be submitted on or before September 18, 2000.

FOR FURTHER INFORMATION CONTACT: Delores King, Air Carrier Fitness Division, X–56, Office of Aviation Analysis; Office of the Secretary; U.S. Department of Transportation, 400 7th Street, SW.; Washington, DC 20590–0002. Telephone (202) 366–2343.

SUPPLEMENTARY INFORMATION:

Office of the Secretary (OST)

Title: USE AND CHANGE OF NAMES OF AIR CARRIERS, FOREIGN AIR CARRIERS AND COMMUTER AIR CARRIERS.

OMB Control Number: 2106–0043.

Affected Public: Persons seeking to use or change the name or trade name in which they hold themselves out to the public as an air carrier or foreign or commuter air carrier authority must register the name or trade name which they will use to hold out air service to the public.

Annual Estimated Burden: 69.*

*The annual estimated burden has decreased from 87.4 hours because of the decrease in the number of name registration applicants over the past two years.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on August 15, 2000.

Michael Robinson,

Information Resource Management, United States Department of Transportation.

[FR Doc. 00–21127 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7801]

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 R' ADVENTURE II.

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 Public Law 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 September 18, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7801. 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: U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, S.W., Washington, DC 20590. Telephone 202–366–4357.

SUPPLEMENTARY INFORMATION: Title V of Public Law 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 (no more 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: R' ADVENTURE II. Owner: Spenser Rohrlick

(2) Size, capacity and tonnage of vessel: According to the Applicant: Length 39′6″; Breadth 13′9″; Draft 3′6″. The capacity of the vessel is a maximum of six passengers. The tonnage is 25 tons net and is calculated pursuant to 46 U.S.C. 14502.

(3) Intended use for vessel, including geographic region of intended operation and trade: According to the applicant: The intended use of the vessel is to enable an existing boat and breakfast with overnight accommodations for up to six guests to: (1) Leave its berth in Kingston NY with up to six passengers; (2) Cruise on the Hudson River to an anchorage for overnight anchoring purposes or (3) Cruise to a marina or yacht club where guests could go ashore for dinner or other shore based activities and return later to the vessel to sleep onboard. Breakfast to be served the next morning onboard. The geographic region for intended use would encompass the Rondout Creek in Kingston NY with a potential cruise range to as far south as West Point (32.6 miles) or as far north as Albany NY (46 miles).

(4) Date and place of construction and (if applicable) rebuilding: Date of construction: 1986. Place of construction: Kaoshiung Taiwan.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators: According to the applicant: This is an innovative and unique concept for the tourism industry. The nearest known Boat and Breakfast offering a cruise and overnight accommodations is located in Annapolis, MD. N.B. There are the two local boats engaged in cruise related activities originating from Kingston NY. One is the M/V Rip Van Winkle, which takes up to 300 passengers on a two-hour day or evening cruise. Passengers may buy refreshments onboard. They also offer a late night party cruise. The M/V Teal offers a two-hour cruise for up to 80 passengers and serves refreshments. Both vessels can be booked for private parties whereby catered meals are brought onboard for their guests. Nonetheless, neither vessel offers (1) Overnight accommodations, (2) Anchoring out overnight, (3) Cruising to other locations and, or course, (4) Breakfast for up to six guests.

(6) A statement on the impact this waiver will have on U.S. shipyards: According to the applicant: I do not believe that this vessel has had any negative impact on any U.S. shipyards. On the contrary, I believe that local marine repair facilities in the Kingston NY area have profited from me since I acquired this vessel in 1998. In addition to brokers fees (10% of the purchase price) and NY state sales tax, (7¾% of the purchase price) an additional 25% of the purchase price has been expended to repair, remodel, and upgrade this vessel with all work being done by local canvas, fiberglass, diesel engine, and air conditioning specialists located at area marina facilities.

Dated: August 15, 2000.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–21094 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[RSPA–00–7795]

Pipeline Safety: Meeting of the Integrity Management Communication Team

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of Integrity Management Communication Team telephone conference meeting.

SUMMARY: The Research and Special Programs Administration (RSPA) Office of Pipeline Safety (OPS) is giving notice of a meeting of the Integrity Management Communication Team. The Team will discuss the content and delivery of pipeline information to be conveyed to local officials and members of the public in or near high consequence areas.

DATES: The conference call will be held on August 28 at 1:30 p.m.

ADDRESSES: Members of the public may attend the meeting at the Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Room 7128, Washington, D.C. 20590. An opportunity will be provided for the public to make short statements on the topics under discussion. Anyone wishing to make an oral statement should notify Mary Jo Cooney, (202) 366–4774, or Christina Sames, (202) 366–4561, no later than August 24, 2000, on the topic of the statement and the time requested for the presentation.

Information on Services for Individuals With Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance during the telephone conference calls, contact Christina Sames at (202) 366–4561.

FOR FURTHER INFORMATION CONTACT: Mary Jo Cooney, OPS, (202) 366–4774, or Christina Sames, OPS, (202) 366–4561.

SUPPLEMENTARY INFORMATION:

Background Information

In connection with the proposed rule on Pipeline Integrity Management in High Consequence Areas, OPS plans to propose related rules governing operator communications with local public officials and agencies. To assist in this effort, the OPS Technical Advisory Committees created an Integrity Management Communications Subcommittee to focus on communications issues and to report back to the full Advisory Committee. OPS expanded this Subcommittee to form a team with equal representation from the public, government agencies, and the pipeline industry, and to consolidate several related efforts.

The Team will provide feedback, insight, and information to the Advisory Committee on the content and delivery of information conveyed to local officials and public about pipeline operations, systems, and the risks they pose in or near high consequence areas. The Advisory Committee will provide pipeline communication recommendations to OPS for consideration in drafting the Integrity Management Communications rulemaking. Team will also assist OPS in finalizing a primer to educate local officials on pipelines and their operations.

Issued in Washington, DC on August 14, 2000.

Jeffrey D. Wiese,

Manager, Program Development, Office of Pipeline Safety.

[FR Doc. 00–21056 Filed 8–17–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–77 (Sub–No. 11X)]

Bangor & Aroostook Railroad Company—Abandonment Exemption—in Aroostook County, ME

Bangor & Aroostook Railroad Company (Applicant) has filed a notice of exemption under 49 CFR 1152

Subpart F—*Exempt Abandonments* to abandon a 0.4-mile portion of its St. Francis line between milepost 0.0 and milepost R–0.40 in Fort Kent, Aroostook County, ME.[1] The line traverses United States Postal Service Zip Code 04743.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 19, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 28, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 7, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Eric Hocky, Gollatz, Griffin & Ewing, P.C., 213 W. Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 23, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Applicant shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Applicant's filing of a notice of consummation by August 18, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: August 11, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–20962 Filed 8–17–00; 8:45 am]

BILLING CODE 4915–00–P

[1] This line segment is the remaining portion of the St. Francis line, which Applicant having received authority to abandon a 16.20-mile segment of the St. Francis line between milepost R–0.40 and milepost R–16.60 in *Bangor & Aroostook Railroad Company—Abandonment Exemption—in Aroostook County, ME*, STB Docket No. AB–77 (Sub-No. 8X) (STB served June 20, 1996).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–56–87 and IA–53–87]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–56–87 and IA–53–87 (TD 8416), Minimum Tax—Tax Benefit Rule (§§ 1.58–9(c)(5)(iii)(B), and 1.58–9(e)(3)).

DATES: Written comments should be received on or before October 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Minimum Tax—Tax Benefit Rule.

OMB Number: 1545–1093.

Regulation Project Number: IA–56–87 and IA–53–87.

Abstract: Section 58(h) of the Internal Revenue Code provides that the Secretary of the Treasury shall prescribe regulations that adjust tax preference items where such items provided no tax benefit for any taxable year. This regulation provides guidance for situations where tax preference items did not result in a tax benefit because of available credits or refund of minimum tax paid on such preferences.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 40.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal

revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 14, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–21104 Filed 8–17–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Low Income Taxpayer Clinic Grant Program; Availability of 2001 Grant Application Package

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document contains a Notice that the IRS has made available the grant application package (Publication 3319) for parties interested in applying for a Low-Income Taxpayer Clinic Grant for the 2001 grant cycle. The IRS will award up to $6,000,000 to qualifying organizations.

DATES: Grant applications for the 2001 grant cycle must be received by the IRS (not postmarked) by September 25, 2000.

ADDRESSES: Send completed grant applications to: Internal Revenue Service, Attn: LITC Program Manager, OP:C:E:W:E, NCFB Room C7–171, 5000 Ellin Road, Lanham, MD 20706. Copies of the grant application package (IRS Publication 3319) can be downloaded from the IRS Internet site at: *http://www.irs.gov/hot/index.html* or ordered by calling 1–800–829–3676.

FOR FURTHER INFORMATION CONTACT: Eli McDavid, LITC Grant Program Manager, (202) 283–0181 or Beverly Smith, LITC Program Analyst, Volunteer and Education Section, 317–226–6771 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 3601 of the IRS Restructuring and Reform Act of 1998, Public Law 105–206, added new section 7526 to the Internal Revenue Code (Code). Section 3601 authorizes the IRS, subject to the availability of appropriated funds, to make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics. Section 3601 authorizes the IRS to provide grants to qualified organizations that provide legal assistance to low income taxpayers having disputes with the IRS or operate programs to inform individuals, for whom English is a second language, about their rights and responsibilities under the Code.

Selection Criteria

Applications that pass the eligibility screening process will be numerically ranked in each of the areas listed below based on the information contained in their proposed program plan. Each criterion reflects the maximum number of points that may be assigned. In assigning numerical points, the IRS will evaluate the program plan based on how it will assist in accomplishment of the IRS mission and goals and LITC statute as stated elsewhere in the application package. Organizations can receive a maximum of 100 points. If you are applying for more than one qualifying activity (*i.e.* representation, referral, ESL, or combination thereof) each type of program will be evaluated separately. The ranking points will be assigned as follows:

- Quality of programs offered to assist low income taxpayers or individuals for whom English is a second language, including (Maximum 75 points)—
  - qualifications of administrators and qualified representatives;
  - the amount of time devoted to the program by clinic staff;
  - training clinic participants will be provided;
  - plans for supervising clinic participants;
  - procedures for ensuring the confidentiality of taxpayer information;
  - publicity of clinic operations; and
  - the dates and days and hours of clinic operation.
- Experience in sponsoring a tax clinic where individuals with tax controversies with the IRS were represented; or
- Experience in sponsoring a tax clinic where individuals with tax controversies with the IRS were referred; or
- Experience in providing a program to inform individuals for whom English is a second language about their rights and responsibilities. (Maximum 10 points)
- Quality of grant administration and internal accounting procedures. (Maximum 10 points)
- Number of low-income and ESL taxpayers in geographical area. (Maximum 5 points)

Other Considerations

Please note that the IRS Volunteer Income Tax Assistance (VITA) Program is a separate and distinct program from the LITC grant program. Organizations currently participating in the VITA Program may be eligible to apply for a LITC grant if they meet the criteria and qualifications outlined in the LITC Grant Application Package & Guidelines (Publication 3319). Organizations that seek to operate both VITA and LITC programs must maintain separate and distinct programs to ensure proper cost allocation for LITC grant funds and adherence to both VITA and LITC program rules and regulations. In addition to the foregoing criteria, to foster parity regarding clinic availability and accessibility for taxpayers nationwide, the IRS will consider the geographic area of applicants as part of the decision making process. The IRS will also seek to attain a proper balance of academic and non-profit organizations as well as a proper balance of start-up and existing clinics.

Comments

Interested parties are encouraged to provide comments on the IRS's administration of the grant program on an ongoing basis.

Dated: August 15, 2000.

Roxann L. Cooper,

Acting, National Director, Education, Walk-In and Correspondence Improvement Division.

[FR Doc. 00–21105 Filed 8–17–00; 8:45 am]

BILLING CODE 4830–01–U

Federal Register

Friday,
August 18, 2000

Part II

Department of Housing and Urban Development

24 CFR Part 30

Initiation of Civil Money Penalty Action for Failing To Disclose Lead-Based Paint Hazards: Amendments Concerning Official To Initiate Action; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 30

[Docket No. FR–4609–F–01]

RIN 2501–AC74

Initiation of Civil Money Penalty Action for Failing To Disclose Lead-Based Paint Hazards: Amendments Concerning Official To Initiate Action

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: HUD's civil money penalty regulations currently state that the Director of HUD's Office of Lead Hazard Control, or the Director's designee, may initiate a civil money penalty action against any person who knowingly violates 42 U.S.C. 4852d(b)(1). This final rule makes minor changes to the applicable provision in the civil money penalty regulations in two respects. First, the reference to the Director of the Office of Lead Hazard Control (OLHC) is changed to the Director of the new successor office to OLHC which is the Office of Healthy Homes and Lead Hazard Control. Second, this rule corrects an incorrect statutory citation in these regulations.

DATES: *Effective Date:* September 18, 2000.

FOR FURTHER INFORMATION CONTACT: John B. Shumway, Office of General Counsel, Room 9262, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–2000; telephone (202) 708–3137 x5190 (this is not a toll-free number). Persons with hearing-or speech-impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

HUD has created a new office in the Office of the Secretary, the Office of Healthy Homes and Lead Hazard Control. This office will perform all of the former functions of the Office of Lead Hazard Control, but will also be responsible for carrying out functions concerning other home and safety issues. Upon creation of the Office of Healthy Homes and Lead Hazard Control, the Office of Lead Hazard Control will no longer exist.

HUD's civil money penalty regulations at 24 CFR 30.65 identify the Director of the Office of Lead Hazard Control as the official with the authority to initiate a civil money penalty action against any person who has failed to comply with the lead-based paint disclosure requirements set out in 42 U.S.C. 4852d(b)(1). Since the Office of Lead Hazard Control no longer exists, this provision is being updated in this final rule to name the Director of the Office of Healthy Homes and Lead Hazard Control to carry out this function.

This final rule also corrects an incorrect citation which appears in 24 CFR 30.65. The reference to 42 U.S.C. 4852d(b)(1) should be 42 U.S.C. 4852d, since the language of this provision is intended to reference any violation of the Residential Lead-Based Paint Hazard Control Act.

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). For the following reasons, HUD finds that good cause exists to publish this rule for effect without first soliciting public comment.

This final rule makes nomenclature changes to 24 CFR 30.65. As a result of internal HUD organizational changes the position referred to in the current regulations no longer exists as it did when the regulations were issued. This final rule merely replaces a reference to the Director of the Office of Lead Hazard Control with the Director of Healthy Homes and Lead Hazard Control. The rule also corrects a misstated citation in the language of 24 CFR 30.65. Neither of these two amendments make any substantive changes to the substance of 24 CFR 30.65. Therefore, HUD determined that it is unnecessary to publish this rule for public comment prior to publishing the rule for effect.

III. Findings and Certifications

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of HUD's regulations, this proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Secretary has reviewed this final rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule would not have a significant economic impact on a substantial number of small entities. This final rule implements a nomenclature change only and does not make any substantive changes to the regulation at 24 CFR 30.65. Therefore, the action taken by this rule (the nomenclature change) does not create any additional burden.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4, 109 Stat. 48, 64, codified at 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 final rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or tribal governments or on the private sector.

Executive Order 13132, Federalism

This final 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'').

List of Subjects in 24 CFR Part 30

Administrative practice and procedure, Loan programs—housing and community development, Mortgages, Penalties.

For the reasons discussed in the preamble, HUD amends 24 CFR part 30 as follows:

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

1. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, 1735f–15, 15 U.S.C. 1717a; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d).

2. Revise § 30.65 to read as follows:

§ 30.65 Failure to disclose lead-based paint hazards.

(a) *General.* The Director of the Office of Healthy Homes and Lead Hazard Control, or his or her designee, may initiate a civil money penalty action against any person who knowingly violates 42 U.S.C. 4852d.

(b) *Amount of penalty.* The maximum penalty is $11,000 for each violation.

Dated: August 11, 2000.

Andrew Cuomo,

Secretary.

[FR Doc. 00–21037 Filed 8–17–00; 8:45 am]

BILLING CODE 4210–32–P

Reader Aids

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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 ''PLUS'' (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.

S. 1629/P.L. 106–257

Oregon Land Exchange Act of 2000 (Aug. 8, 2000; 114 Stat. 650)

S. 1910/P.L. 106–258

To amend the Act establishing Women's Rights National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Waterloo, New York. (Aug. 8, 2000; 114 Stat. 655)

H.R. 4576/P.L. 106–259

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