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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–11–AD; Amendment 39–12977; AD 2002–25–02]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TPE331–3, –5, –6, –8, –10, and –11 Series Turboprop and TSE331–3 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Honeywell International Inc. (formerly AlliedSignal Inc., Garrett Turbine Engine Company and AiResearch Manufacturing Company of Arizona) TPE331–3, –5, –6, –8, –10, and –11 series turboprop and TSE331–3 series turboshaft engines. This amendment requires removing weld repaired first stage compressor impellers from service. This amendment is prompted by an uncontained TPE331–11U turboprop engine failure and an in-flight shutdown due to the separation of the first stage Ti 6–4 compressor impeller. The actions specified by this AD are intended to prevent uncontained engine failures, in-flight shutdowns, and secondary damage.

DATES: Effective January 21, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 21, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Honeywell Engines, Systems and Services, Technical Data Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial); fax: (602) 365–5577 (General Aviation and Commercial). This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood CA 90712–4137; telephone: (562) 627–5246; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Honeywell International Inc. (formerly AlliedSignal Inc., Garrett Turbine Engine Company and AiResearch Manufacturing Company of Arizona) TPE331–3, –5, –6, –8, –10, and –11 series turboprop and TSE331–3 series turboshaft engines was published in the **Federal Register** on July 25, 2002 (67 FR 48577). That action proposed to require removing weld repaired first stage compressor impellers from service, in accordance with Honeywell Alert Service Bulletin TPE331–A72–2083, revision 1, dated May 17, 2002.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

One commenter states that paragraph (a)(3) as-written in the proposal, implies that the 12,500 cycle limit applies only to weld repairs that would be performed after the effective date of the AD. The FAA agrees, and has moved the last phrase of that paragraph which states, after the effective date of the AD, to the beginning of the sentence, for clarity.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

There are approximately 2,040 engines of the affected design in the worldwide fleet. The FAA estimates that 1,020 engines installed on aircraft of U.S. registry would be affected by this AD. The FAA estimates that 1,000 engines will have the required actions done during a scheduled engine overhaul. The FAA also estimates that it would take approximately 2 work hours per engine to do the actions during scheduled engine overhauls and 80 work hours per engine during unscheduled engine overhauls, and that the average labor rate is $60 per work hour. Required parts would cost approximately $9,600 per engine to do the actions during scheduled engine overhauls and $14,600 per engine which includes consumables, during unscheduled engine overhauls. Based on these figures, the total cost of the AD on U.S. operators is estimated to be $10,108,000.

Regulatory Analysis

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2002–25–02 Honeywell International Inc.: Amendment 39–12977. Docket No. 2001–NE–11–AD.

Applicability: This airworthiness directive (AD) is applicable to Honeywell International Inc. (formerly AlliedSignal Inc., Garrett Turbine Engine Company and AiResearch Manufacturing Company of Arizona) TPE331–3, –5, –6, –8, –10, and –11 series turboprop and TSE331–3 series turboshaft engines. These engines are installed on, but not limited to Ayres S–2R series; Beech 18 and 45 series and Models JRB–6, 3N, 3NM, 3TM, and B100; Cessna Model 441; Construcciones Aeronauticas, S.A. (CASA) C–212 series; De Havilland DH 104 series 7AXC (Dove); Dornier 228 series; Fairchild SA226 and SA227 series (Swearingen Merlin and Metro series); Grumman American G–164 series; Jetstream 3101; Mitsubishi MU–2B series (MU–2 series); Prop-Jets, Inc. Model 400; Rockwell Commander S–2R; Shorts Brothers and Harland, Ltd. SC7 (Skyvan); Pilatus PC–6 series (Fairchild Porter and Peacemaker); and Schweizer G–164 series; and Twin Commander Aircraft Corp. (Jetprop Commander) Models 695 and 695A airplanes; and Sikorsky S–55 series (Helitec Corp. S55T) helicopters.

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

To prevent an uncontained engine failure, in-flight shutdown, and secondary damage, do the following:

Removal of Weld Repaired First Stage Compressor Impellers From Service

(a) Remove from service weld repaired first stage compressor impellers, P/N's 896223–1, –2, –3, and –7 and 3107109–2, with SN's listed in Table 1 and Table 2 of the Accomplishment Instructions in 2.A.(1) and 2.A.(2) of Honeywell Alert Service Bulletin TPE331–A72–2083, revision 1, dated May 17, 2002, in accordance with the following schedule:

(1) Remove impellers with no record of cycles since weld repair, within 3,600 cycles-in-service (CIS) or at the next engine overhaul, or at the next major Continuous Airworthiness Maintenance (CAM) compressor section inspection, after the effective date of this AD, whichever occurs first.

(2) Remove impellers with more than 8,900 cycles since ''weld repair,'' within 3,600 CIS, or at the next engine overhaul, or at the next major CAM compressor section inspection after the effective date of this AD, whichever occurs first.

(3) After the effective date of this AD, remove impellers with 8,900 or less cycles since ''weld repair,'' before reaching 12,500 cycles since weld repair.

(b) For purposes of this AD, weld repaired or weld repair is defined as an impeller repair which involved heat treating and that was performed from 1980 through 1997 at Honeywell Aerospace Services, Aftermarket-Phoenix Repair and Overhaul, 1944 E. Sky Harbor Circle, Phoenix, AZ. 85034 (FAA Certificate Number ZN3R030M). Former names and FAA certificate numbers for Honeywell's Repair and Overhaul Facility are listed in section 2.A. of the Accomplishment Instructions in Honeywell Alert Service Bulletin TPE331–A72–2083, revision 1, dated May 17, 2002.

Alternative Methods 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, Los Angeles Aircraft Certification Office (ACO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

Special Flight Permits

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

Documents That Have Been Incorporated by Reference

(e) The impeller removals must be done in accordance with Honeywell International Inc. Alert Service Bulletin TPE331–A72–2083, revision 1, dated May 17, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Honeywell Engines, Systems and Services, Technical Data Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial); fax: (602) 365–5577 (General Aviation and Commercial). Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 21, 2003.

Issued in Burlington, Massachusetts, on December 2, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–31172 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–35–AD; Amendment 39–12980; AD 2002–25–05]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Limited BN–2 and BN2A Mk. III Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Pilatus Britten-Norman (Pilatus Britten-Norman) Limited BN–2 and BN2A Mk. III series airplanes. This AD requires you to inspect the universal joints on the pilot's and co-pilot's control column to determine the diameter of the shaft and replace any universal joint that is the wrong size. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to correct the installation of universal joints that have the wrong-sized shaft, which could result in failure of the pilot's and/or co-pilot's control column. Such failure could lead to loss of control of the airplane.

DATES: This AD becomes effective on February 3, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of February 3, 2003.

ADDRESSES: You may get the service information referenced in this AD from B–N Group Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–35–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified FAA that an unsafe condition may exist on all Pilatus Britten-Norman BN–2 and BN2A Mk. III series airplanes. The CAA reports that, during maintenance on one of the affected airplanes, an undersized universal joint was found. This installation of undersized universal joints is the result of a quality control problem.

What Is the Potential Impact if FAA Took No Action?

This condition, if not corrected, could cause failure of the pilot's and/or co-pilot's control column. Such failure could result in loss of control of the airplane.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus Britten-Norman BN–2 and BN2A Mk. III series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on September 18, 2002 (67 FR 58737). The NPRM proposed to require you to inspect the universal joints on the pilot's and co-pilot's control column to determine the diameter of the shaft and replace any universal joint that is the wrong size.

Was the Public Invited to Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

What Are the Differences Between This AD, the Service Information, and the CAA AD?

The CAA AD and the service information requires inspection and, if necessary, replacement of any universal joint that is not the correct size within the next 10 hours time-in-service (TIS) after the effective date of the AD. We are requiring you to inspect and, if necessary, replace within 30 days after the effective date of this AD. We do not have justification to require this action within the next 10 hours TIS. We use compliance times such as this when we have identified an urgent safety of flight situation. We believe that 30 days will give the owners or operators of the affected airplanes enough time to have the actions accomplished without compromising the safety of the airplanes.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 135 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the inspection:

Labor cost per universal joint	Parts cost	Total cost per universal joint	Total cost on U.S. operators
1 workhour × $60 = $60 (3 universal joints per airplane).	No parts required	$60 ($60 × 3 universal joints per airplane = $180).	$180 × 135 = $24,300.

We estimate the following costs to accomplish any necessary replacements that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost per universal joint	Parts cost	Total cost per universal joint
2 workhours × $60 = $120	$2,000 per universal joint	$120 + $2,000 = $2,120.

Compliance Time of This AD

What Is the Compliance Time of This AD?

The compliance time of this AD is ''within the next 30 days after the effective date of this AD.''

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

This unsafe condition is not a result of the number of times the airplane is operated. The chance of this situation occurring is the same for an airplane with 10 hours time-in-service (TIS) as it is for an airplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Regulatory Impact

Does This AD Impact Various Entities?

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.

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–25–05 Pilatus Britten-Norman Limited: Amendment 39–12980; Docket No. 2002–CE–35–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models, all serial numbers, that are certificated in any category:

Models

BN–2, BN–2A, BN–2A–2, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN–2T, BN–2T–4R, BN2A MK. III, BN2A MK. III–2, and BN2A MK. III–3

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct the installation of universal joints that have the wrong-sized shaft, which could result in failure of the pilot's and/or co-pilot's control column. Such failure could lead to loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect all universal joints on the pilot's and co-pilot's control columns to determine the diameter of the shaft. (i) If the universal joint diameter is 1.154 to 1.155 inches, re-install into the airplane; and. (ii) If the universal joint diameter is not 1.154 to 1.155 inches in diameter, replace with a new universal joint that has the a diameter of 1.154 to 1.155 inches.	Inspect within the next 30 days after February 3, 2003 (the effective date of this AD). Replace prior to further flight after the inspection.	In accordance with B–N Group Ltd. Service Bulletin Number SB 284, Issue 1, dated May 9, 2002.
(2) Do not install any universal joint that is not 1.154 to 1.155 inches in diameter.	As of February 3, 2003 (the effective date of this AD).	In accordance with B–N Group Ltd. Service Bulletin Number SB 284, Issue 1, dated May 9, 2002.

(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, Standards Office, 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, Standards Office.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with B–N Group Ltd. Service Bulletin Number SB 284, Issue 1, dated May 9, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from B–N Group Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in British AD Number 004–05–2002, dated May 30, 2002.

(i) *When does this amendment become effective?* This amendment becomes effective on February 3, 2003.

Issued in Kansas City, Missouri, on December 5, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–31394 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9025]

RIN 1545–BA05

Intercompany Transactions: Conforming Amendments to Section 446

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: On July 18, 1995, the Treasury Department and the IRS published final regulations governing the intercompany transaction system of the consolidated return regulations. Those regulations state that the timing rules of the intercompany transaction system are a method of accounting. At the time of the publication of those regulations, no amendment was made to the regulations promulgated under section 446 to coordinate with that statement. This document contains final regulations confirming that the timing rules of the intercompany transaction regulations are a method of accounting. These regulations apply to all taxpayers filing consolidated returns.

DATES: *Effective Date:* These regulations are effective December 16, 2002.

Applicability Date: These regulations apply to consolidated return years beginning on or after November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Vincent Daly, (202) 622–7770, or Jeffery G. Mitchell (202) 622–4930 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

On July 18, 1995, the Treasury Department and the IRS published in the **Federal Register** (60 FR 36671 (1995–2 C.B. 147)) final regulations under § 1.1502–13 governing the intercompany transaction system of the consolidated return regulations. Included in such regulations was an express statement that ''[t]he timing rules of [the intercompany transaction regulations] are a method of accounting for intercompany transactions, to be applied by each member in addition to the member's other methods of accounting.'' § 1.1502–13(a)(3)(i). At the time of the publication of those final regulations, no amendment was made to the regulations promulgated under section 446 to coordinate with the statement in § 1.1502–13(a)(3)(i) that the timing rules of § 1.1502–13 are a method of accounting.

In *General Motors* v. *Commissioner*, 112 T.C. 270 (1999), the Tax Court determined that the timing rule of former § 1.1502–13(b)(2) was not a method of accounting for purposes of section 446(e). On November 7, 2001, the Treasury and the IRS published in the **Federal Register** a notice of proposed rulemaking (REG–125161–01, 66 FR 56262 (2001–48 I.R.B. 538)) proposing amendments to CFR part 1 under section 446 of the Internal Revenue Code to confirm that the timing rules of § 1.1502–13 are a method of accounting. No written comments responding to the notice of proposed rulemaking were received, and no public hearing was requested or held. Therefore, the proposed regulations are adopted by this Treasury decision without change.

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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

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

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

2. Section 1.446–1 is amended by adding paragraph (c)(2)(iii) to read as follows:

§ 1.446–1 General rule for methods of accounting.

* * * * *

(c) * * *

(2) * * *

(iii) The timing rules of § 1.1502–13 are a method of accounting for intercompany transactions (as defined in § 1.1502–13(b)(1)(i)), to be applied by each member of a consolidated group in addition to the member's other methods of accounting. *See* § 1.1502–13(a)(3)(i). This paragraph (c)(2)(iii) is applicable to consolidated return years beginning on or after November 7, 2001.

* * * * *

3. In § 1.1502–13, the second sentence of paragraph (a)(3)(i) is revised to read as follows:

§ 1.1502–13 Intercompany transactions.

(a) * * *

(3) * * *

(i) * * * *See* § 1.1502–17 and, with regard to consolidated return years beginning on or after November 7, 2001, § 1.446–1(c)(2)(iii). * * *

* * * * *

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: December 9, 2002.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 02–31614 Filed 12–13–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

29 CFR Part 500

Migrant and Seasonal Agricultural Worker Protection

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The purpose of this document is to change the Public Registry toll-free telephone number listed in § 500.170 of regulations, 29 CFR part 500.

DATES: This rule is effective on December 16, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Ziegler, Team Leader, Farm Labor Team, Office of Enforcement Policy, Wage and Hour Division, Employment

Standards Administration, U.S. Department Labor, Telephone (202) 693–0700. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule imposes no reporting or recordkeeping requirements on the public.

II. Background

Section 500.170 of regulations, 29 CFR part 500 requires the Administrator to establish a Central Public Registry of all persons issued a Certificate of Registration or a Farm Labor Contractor Employee Certificate. Information contained within the registry is made available upon request, either via the mail or by telephone. The toll-free number to call for obtaining information from the central public registry was formerly 1–800–800–0235. The Department of Labor's change in phone service has resulted in a new toll-free number for all public inquiries. The new number is 1–866–4US–WAGE (1–866–487–9243).

A. Summary of Rule

Section 500.170 of Regulations, 29 CFR part 500 is amended to provide for a new toll-free telephone number for obtaining information contained in the Central Public Registry. The new number is 1–866–4US–WAGE (1–866–487–9243).

B. Executive Order 12866

Because this rule merely changes the applicable toll-free telephone number for obtaining registry information, it is limited to agency organization and management matters and is, therefore, not subject to the requirements of Executive Order 12866. *See* Sec. 3(d)(3) of E.O. 12866.

C. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b)(3), the requirements of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. *See* 5 U.S.C 601(2). The rule simply changes an applicable telephone number and will not have a significant economic impact on a substantial number of small entities.

D. Administrative Procedure Act

This regulation relates to internal agency practice or management or organization and is procedural in nature. Accordingly, pursuant to 5 U.S.C. §§ 553(a)(2) and 553 (b)(3)(A), the requirements for prior notice and public comment do not apply to this rule.

The Secretary also for good cause finds, pursuant to 5 U.S.C. 553(d)(3), that this rule should take effect immediately because it is merely a technical procedural change in an applicable toll-free telephone number which does not affect any substantive rights.

E. Document Preparation

This document was prepared under the direction and control of Tammy D. McCutchen, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 500

Administrative practice and procedure, Agricultural, Aliens, Carpools, Farmer, Farm labor contractor, Housing standards, Immigration, Insurance, Investigation, Labor, Manpower training programs, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting requirements, Safety, Seasonal agricultural workers, Transportation, Wages.

For the reasons set forth above, 29 CFR part 500 is amended as set forth below.

Signed at Washington, DC on this 10th day of December, 2002.

Tammy D. McCutchen,

Administrator, Wage and Hour Division.

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

1. The authority citation for part 500 is revised to read as follows:

Authority: Pub. L. 97–470, 96 Stat. 2583 (29 U.S.C. 1801–1872); Secretary's Order No. 4–2001, 66 FR 29656.

2. Section 500.170 is revised to read as follows:

§ 500.170 Establishment of registry.

The Administrator shall establish a central public registry of all persons issued a Certificate of Registration or a Farm Labor Contractor Employee Certificate. The central public registry shall be available at the Regional Offices of the Wage and Hour Division and its National Office in Washington, DC. Information filed therein shall be made available upon request. Requests for information contained in the registry may also be directed by mail to the Administrator, Wage and Hour Division. Attn: MSPA, U.S. Department of Labor, Washington, DC 20210. Alternatively, requests for registry information may be made by telephone by calling 1–866–4US–WAGE (1–866–487–9243), a toll-free number, during the hours of 8 a.m. to 5 p.m., in your time zone, Monday through Friday.

[FR Doc. 02–31525 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–02–122]

RIN 2115–AE46

Special Local Regulations; Winterfest Boat Parade, Broward County, Fort Lauderdale, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing special local regulations for the annual Winterfest Boat Parade held on the first Saturday falling between December 13 and 19, inclusive, each year in Fort Lauderdale, Florida. This rule creates four separate regulated areas and restricts operations of non-participant vessels in the regulated areas. These regulations are to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from 4 p.m. until 11 p.m. annually, on the first Saturday falling between December 13 and 19, inclusive.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of [CGD07–02–122] and are available for inspection or copying at Coast Guard Group Miami, 100 MacArthur Causeway, Miami Beach, Florida, 33139 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BMC Sorensen or BM1 Vaughn, Coast Guard Group Miami, Florida at (305) 535–4317.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On October 31, 2002, we published a notice of proposed rulemaking (NPRM) entitled ''Special Local Regulations; Winterfest Boat Parade, Borward County, Fort Lauderdale, FL'' in the **Federal Register** (67 FR 66349). We did not receive any letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Winterfest Boat Parade is a nighttime parade of approximately 110 pleasure boats ranging in length from 20 feet to 200 feet decorated with holiday lights. Approximately 1500 spectator craft typically view the parade. The parade will form in the staging area at the Port Everglades turning basin and on a portion of the Intracoastal Waterway (ICW) south of the turning basin and will proceed north on the ICW to Lake Santa Barbara where the parade will disband.

These regulations create regulated areas for the staging area, judging area, viewing area, and parade route. Non-participant vessels are prohibited from entering or anchoring in the staging area. Further, no vessel is allowed to enter or anchor in the viewing and judging areas. During the parade transit, these regulations prohibit non-participant vessels from approaching within 175 yards ahead of the lead vessel and 175 yards astern of the last participant vessel in the parade, and within 15 yards on either side of the outboard parade vessels, unless authorized by the Coast Guard Patrol Commander. The event sponsor will have watercraft in the area to guide mariners around the regulated areas.

The staging area of this regulation overlaps with existing security zones published in 33 CFR Part 165 by the Coast Guard Captain of the Port of Miami. These security zones are activated when passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquified hazardous gas as defined in 33 CFR parts 120, 126, and 127 respectively, enter or moor in Port Everglades. These security zones remain in effect during this event and no person or vessel may enter the security zones without the permission of the Coast Guard Patrol Commander.

Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rule and is adopting it in whole.

Regulatory Evaluation

This 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) because this rule is only in effect for 7 hours each year and the Coast Guard Patrol Commander may allow vessels to enter portions of the regulated areas on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. The term ''small entities'' include small business, 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.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the regulated areas during the Winterfest Boat Parade. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because this rule is only in effect for 7 hours each year and the Coast Guard Patrol Commander may allow vessels to enter portions of the regulated areas on a case-by-case basis.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandate Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

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.

Civil Justice Reform

This rule 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.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1D, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46.

2. Add § 100.735 to read as follows:

§ 100.735 Winterfest Boat Parade, Broward County, Fort Lauderdale, Florida

(a) *Regulated areas.* (1) *Staging area.* The staging area consists of all waters of the Port Everglades turning basin, including the North and South extensions, all waters of the Bar Cut west of a line from position 26°05.668′ N, 080°06.491′ W, to position 26°05.557′ N, 080°06.491′ W, and all waters of the ICW, bank to bank, from Dania Sound Light 35 (LLNR 47575) to the Port Everglades turning basin.

(2) *Parade route.* The parade route consists of the Intracoastal Waterway (ICW), bank to bank, from a line drawn across the ICW at the 17th Street Causeway Bridge between position 26°06.098′ N, 080°07.179′ W and position 26°06.092′ N, 080°07.085′ W, to Pompano Beach Daybeacon 74 (LLNR 47230).

(3) *Viewing area.* The viewing area consists of all waters of the ICW east of the centerline of the charted channel from the Sunrise Boulevard Bridge (26°08.281′ N, 080°06.482′ W) past Hugh Taylor Birch State Park to position 26°09.0′ N, 080°06.3′ W at the north end of Hugh Taylor Birch State Park.

(4) *Judging area.* The judging area consists of an area of the ICW, bank to bank, from a point on the northwest side of the 17th Street Causeway Bridge in position 26°06.098′ N, 080°07.179′ W, north to position 26°06.131′ N, 080°07.19′ W, then east to position 26°06.131′ N, 080°07.10′ W, then back south to position 26°06.092′ N, 080°07.085′ W at the northeast side of the 17th Street Causeway Bridge.

(b) *Special local regulations.* (1) *Staging area.* Non-participant vessels are prohibited from entering or anchoring in the staging area, unless authorized by the Coast Guard Patrol Commander. The Coast Guard Patrol Commander may allow vessels to enter the staging area when the last participant vessel has departed the staging area. The Coast Guard Patrol Commander will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157. MHz) if vessels are allowed to enter the staging area.

(2) *Parade route.* During the parade transit, non-participant vessels are prohibited from approaching within 175 yards ahead of the lead vessel and 175 yards astern of the last participating vessel in the parade, and within 15 yards either side of the parade unless authorized by the Coast Guard Patrol Commander.

(3) *Viewing and judging areas.* Vessels are prohibited from entering or anchoring in the viewing and judging areas unless authorized by the Coast Guard Patrol Commander.

(4) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Miami, Florida and is also the designated representative of the Captain of the Port of Miami for purposes of enforcing security zones in Port Everglades during this event.

(c) *Dates.* This section is effective from 4 p.m. until 11 p.m. annually, on the first Saturday falling between December 13 and 19, inclusive.

Dated: December 6, 2002.

F.M. Rosa,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 02–31601 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–139]

Drawbridge Operation Regulations: Niantic River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations that govern the Amtrak Bridge across the Niantic River, mile 0.0, at Niantic, Connecticut. This temporary deviation will allow the bridge to remain in the closed position from 7 a.m. on December 15, 2002 through 5 p.m. on January 31, 2003. This temporary deviation is necessary to facilitate electrical repairs at the bridge.

DATES: This deviation is effective from December 15, 2002 through January 31, 2003.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York 10004, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District Bridge Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District Bridge Branch, (212) 668–7165.

SUPPLEMENTARY INFORMATION: The vertical clearance under the Amtrak Bridge in the closed position is 11 feet at mean high water and 14 feet at mean low water. The existing regulations are listed at 33 CFR 117.215(a).

The bridge owner, Amtrak, requested a temporary deviation from the Drawbridge Operation Regulations to facilitate necessary maintenance, the replacement of the electrical control system, at the bridge.

The Coast Guard coordinated this project with the mariners who normally use this waterway to help determine the best time period to perform this necessary bridge maintenance.

Under this temporary deviation the Amtrak Bridge, mile 0.0, across the Niantic River, may remain in the closed position from 7 a.m. on December 15, 2002 through 5 p.m. on January 31, 2003. Vessels that can pass under the bridge without a bridge opening may do so at all times.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: December 4, 2002.

V.S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–31541 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–142]

Drawbridge Operation Regulations: Jamaica Bay and Connecting Waterways, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations that govern the Marine Parkway Bridge across Jamaica Bay, mile 3.0, between Brooklyn and Queens, New York. This temporary deviation will allow the bridge to remain in the closed position from 7 a.m. on December 19, 2002 through 5 p.m. on December 20, 2002. This temporary deviation is necessary to facilitate repairs at the bridge.

DATES: This deviation is effective from December 19, 2002 through December 20, 2002.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York 10004, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District Bridge Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District Bridge Branch, (212) 668–7165.

SUPPLEMENTARY INFORMATION: The vertical clearance under the Marine Parkway Bridge in the closed position is 55 feet at mean high water and 59 feet at mean low water. The existing regulations are listed at 33 CFR 117.795.

The bridge owner, MTA Bridges and Tunnels Authority, requested a temporary deviation from the Drawbridge Operation Regulations to facilitate necessary maintenance, the removal of work platforms, at the bridge.

The Coast Guard coordinated this project with the mariners who normally use this waterway to help determine the best time period to perform this necessary bridge maintenance.

Under this temporary deviation the Marine Parkway Bridge, mile 3.0, across Jamaica Bay, may remain in the closed position from 7 a.m. on December 19, 2002 through 5 p.m. on December 20, 2002.

This deviation from the operating regulations is authorized under 33 CFR § 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: December 4, 2002.

V.S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–31540 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–138]

Drawbridge Operation Regulations: Hutchinson River, Eastchester Creek, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the South Fulton Avenue Bridge, mile 2.9, across Eastchester Creek, at Mount Vernon, New York. Under this temporary deviation the bridge may remain closed to vessel traffic from 7 a.m. on December 11, 2002 through 5 p.m. on December 13, 2002, and from 7 a.m. on December 18, 2002 through 5 p.m. on December 20, 2002. This temporary deviation is necessary to facilitate repairs at the bridge.

DATES: This deviation is effective from December 11, 2002 through December 20, 2002.

FOR FURTHER INFORMATION CONTACT: Joeseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The South Fulton Avenue Bridge has a vertical clearance in the closed position of 6 feet at mean high water and 13 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.793(c).

The bridge owner, Westchester County Department of Public Works, requested a temporary deviation from the drawbridge operation regulations to facilitate necessary maintenance, the replacement of the span limit switches, at the bridge. The bridge must remain in the closed position to perform these repairs. Vessels that can pass under the bridge without a bridge opening may do so at all times.

The Coast Guard coordinated this closure with the mariners who normally use this waterway to help facilitate this necessary bridge repair and to minimize any disruption to the marine transportation system.

Under this temporary deviation the South Fulton Avenue Bridge may remain closed to vessel traffic from 7 a.m. on December 11, 2002 through 5 p.m. on December 13, 2002, and from 7 a.m. on December 18, 2002 through 5 p.m. on December 20, 2002.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: December 5, 2002.

V.S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–31602 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–02–042]

RIN 2115–AA97

Security Zone; San Juan, PR

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing moving and fixed security zones 50 yards around all cruise ships entering, departing, moored or anchored in the Port of San Juan, Puerto Rico. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port of San Juan or his designated representative.

DATES: This rule is effective on May 1, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket [CGD07–02–042] and are available for inspection or copying at Coast Guard Marine Safety Office San Juan, Rodriguez and Del Valle Building, San Martin Street, Carr. #2, Km. 4.9, Guaynabo, Puerto Rico, 00968, between the hours of 7 a.m. and 3:30 p.m., Monday through Friday, excluding Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Chip Lopez at Coast Guard Marine Safety Office San Juan, Puerto Rico, (787) 706–2444.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 25, 2002, we published a notice of proposed rulemaking (NPRM) entitled: Security Zone, San Juan Puerto Rico, in the **Federal Register** (67 FR 42741). We received no letters commenting on the proposed rule. No public hearing was requested and none was held.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of San Juan, Puerto Rico, against cruise ships entering, departing and moored within the Port of San Juan. Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorists attacks are likely.

The terrorist acts against the United States on September 11, 2001, have increased the need for safety and security measures on U.S. ports and waterways. In response to these terrorist acts, and in order to prevent similar occurrences, the Coast Guard is establishing temporary security zones around all cruise ships entering, departing and moored within the Port of San Juan. We previously published two temporary final rules entitled ''Security Zone; San Juan, PR'' in the **Federal Register** on January 17, 2002 (67 FR 2330) and on June 13, 2002 (67 FR 40608). These temporary final rules contained similar provisions as those in this rulemaking.

The security zone for a cruise ship entering the Port of San Juan will be activated when the cruise ship is one mile north of the number 3 buoy, at approximate position 18°28′17″ N, 66°07′37.5″ W. The zone for a vessel would be deactivated when the vessel passes this buoy on its departure from the Port of San Juan. The security zones encompass all waters 50 yards around a cruise ship.

Persons and vessels are prohibited from entering into or transiting through a security zone unless authorized by the Captain of the Port (COTP), or his designated representative. Each person and vessel in a security zone must obey any direction or order of the COTP. The COTP may remove any person, vessel, article, or thing from a security zone. No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the Captain of the Port. The Captain of the Port will notify the public of these security zones through Marine Safety Information Bulletins via facsimile and the Marine Safety Office San Juan Web site at *http://www.msocaribbean.com.*

Discussion of Comments and Changes

No comments were received on the proposed rule.

Regulatory Evaluation

This 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary because other vessels will be able to safely navigate around the zones while in place and persons may be authorized to enter or transit the zone with the permission of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this 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 rule would not have a significant economic impact on a substantial number of small entities. The rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Port of San Juan when a cruise ship is entering, departing, moored or anchored in the Port of San Juan. This rule will not have a significant economic impact on a substantial number of small entities because other vessels will be able to safely navigate around the zones while in place and persons may be authorized to enter or transit the zone with the permission of the Captain of the Port.

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 your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Chip Lopez at (787) 706–2444 for assistance in understanding this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small businesses. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

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 unfunded mandate costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would 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.

Civil Justice Reform

This rule 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.

Protection of Children

We have analyzed this rule under Executive Order 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 safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this rule and has determined that, under figure 2–1, paragraph (34)g, of Commandant Instruction M16475.lC, that this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Section 165.758 is added to read as follows:

§ 165.758 Security Zone; San Juan, Puerto Rico.

(a) *Location.* Moving and fixed security zones are established 50 yards around all cruise ships entering, departing, moored or anchored in the Port of San Juan, Puerto Rico. The security zone for a cruise ship entering port is activated when the vessel is one mile north of the #3 buoy, at approximate position 18°28′17″ N, 66°07′37.5″ W. The security zone for a vessel is deactivated when the vessel passes this buoy on its departure from the port.

(b) *Regulations.* (1) Under general regulations in § 165.33 of this part, entering, anchoring, mooring or transiting in these zones is prohibited unless authorized by the Coast Guard Captain of the Port of San Juan.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at the Greater Antilles Section Operations Center at (787) 289–2041 or via VHF radio on Channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(3) The Marine Safety Office San Juan will attempt to notify the maritime community of periods during which these security zones will be in effect by providing advance notice of scheduled arrivals and departures of cruise ships via a broadcast notice to mariners.

(c) *Definition.* As used in this section, *cruise ship* means a passenger vessel greater than 100 feet in length that is authorized to carry more than 150 passengers for hire, except for a ferry.

(d) *Authority.* In addition to 33 U.S.C 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: November 26, 2002.

W.J. Uberti,

Captain, Coast Guard, Captain of the Port.

[FR Doc. 02–31599 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Charleston–02–146]

RIN 2115–AA97

Security Zones; Charleston Harbor, Cooper River, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is maintaining the temporary fixed security zones for the waters under the Highway 17 bridges over Charleston Harbor and the Don Holt I–526 Bridge over the Cooper River. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Vessels are prohibited from anchoring, mooring, or loitering within these zones, unless specifically authorized by the Captain of the Port, Charleston, South Carolina or his designated representative.

DATES: This regulation is effective on December 17, 2002 until 11:59 p.m. July 15, 2003. Comments and related material must reach the Coast Guard on or before February 14, 2003.

ADDRESSES: You may mail comments and related material to Coast Guard Marine Safety Office Charleston, 196 Tradd Street, Charleston, South Carolina 29401. Coast Guard Marine Safety Office Charleston 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, are part of [COTP Charleston 02–146], will become part of this docket and will be available for inspection or copying at Marine Safety Office Charleston, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Kevin D. Floyd, Coast Guard Marine Safety Office Charleston, at (843) 747–7411.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a Notice of Proposed Rulemaking (NPRM). Publishing a NPRM and delaying the effective date of this rule would be contrary to national security since immediate action is necessary to protect the public, ports and waterways of the United States.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001, terrorist attack on the World Trade Center in New York and the Pentagon in Arlington, VA, there is an increased risk that subversive terrorist activity could be launched by vessels or persons in close proximity to the Port of Charleston, S.C., against bridges within the security zones continued by this rule. If a bridge were damaged or destroyed, the Port of Charleston would be isolated from access to the sea, crippling the local economy and negatively impacting national security. These temporary security zones are necessary to protect the safety of life and property on the navigable waters, prevent potential terrorist threats aimed at the bridges crossing the main shipping channels in the Port of Charleston, S.C. and to ensure the continued unrestricted access to the sea from the Port.

A similar temporary rule was published in the **Federal Register** on October 18, 2001 (67 FR 9194, 9195, February 28, 2002) creating temporary security zones around these bridges. That rule expired on January 15, 2002. Those security zones were extended by another temporary rule published on February 22, 2002 (67 FR 9201) which expired on June 15, 2002. Those security zones were again extended by a temporary rule published in the **Federal Register** on July 3, 2002 (67 FR 44555) and will expire on December 16, 2002.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 rule to be so minimal so that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The limited geographic area impacted by the security zones will not restrict the movement or routine operation of commercial or recreational vessels through the Port of Charleston. Also, an individual may request a waiver of these regulations from the Coast Guard Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule would have a significant economic effect 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 rule will not have a significant economic impact on a substantial number of small entities because the limited geographic area encompassed by the security zones will not restrict the movement or routine operation of commercial or recreational vessels through the Port of Charleston. Also, an individual may request a waiver of these regulations from the Coast Guard Captain of the Port of Charleston.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may also send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

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.

Civil Justice Reform

This rule 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.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this rule and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T07–146 is added to read as follows:

§ 165.T07–146 Security Zones; Charleston Harbor, Cooper River, South Carolina.

(a) *Regulated area.* (1) A temporary fixed security zone is established for the waters around the Highway 17 bridges, to encompass all waters of the Cooper River within a line connecting the following points: 32 deg.48.23′ N, 079 deg.55.3′ W; 32 deg.48.1′ N, 079 deg.54.35′ W; 32 deg.48.34′ N, 079 deg.55.25′ W; 32 deg.48.2′ N, 079 deg.54.35′ W.

(2) Another temporary fixed security zone is established for the waters around the Interstate 526 Bridge spans (Don Holt Bridge) in Charleston Harbor and on the Cooper River and will encompass all waters within a line connecting the following points: 32 deg.53.49′ N, 079 deg.58.05′ W; 32 deg.53.42′ N, 079 deg.57.48′ W; 32 deg.53.53′ N, 079 deg.58.05′ W; 32 deg.53.47′ N, 079 deg.57.47′ W.

(b) *Regulations.* In accordance with the general regulations 165.33 of this part, vessels are allowed to transit through these zones but are prohibited from mooring, anchoring, or loitering within these zones unless specifically authorized by the Captain of the Port.

(c) *Authority.* In addition to 33 U.S.C. 1321 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(d) *Effective dates.* This section is effective on December 17, 2002 until 11:59 p.m. on July 15, 2003.

Dated: December 2, 2002.

G.W. Merrick,

Commander, Coast Guard, Captain of the Port.

[FR Doc. 02–31600 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA125–5058a; FRL–7422–1]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Repeal of Emission Standards for Perchloroethylene Dry Cleaning Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Virginia State Implementation Plan (SIP). The revision consists of the repeal of emission standards for perchloroethylene (perc) dry cleaning systems. EPA is approving this revision in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on February 14, 2003 without further notice, unless EPA receives adverse written comment by January 15, 2003. If EPA receives such comments, it 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: Written comments should be mailed to Walter Wilkie, Acting Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Pauline De Vose, (215) 814–2186, or by e-mail at *devose.pauline@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

On November 9, 2001, the Commonwealth of Virginia (Virginia) submitted a formal revision to its SIP. The SIP revision consists of the repeal of emission standards for perc dry cleaning systems contained in Article 38 (9 VAC 5–40–5350 *et seq.*) of 9 VAC 5 Chapter 40.

Perc was added to the list of compounds excluded from the definition of volatile organic compound (VOC) on the basis that it has negligible photochemical reactivity (40 CFR 51.100 (s)). Perc is a solvent commonly used in dry cleaning, maskant operations and degreasing operations.

Summary of SIP Revision

The SIP revision contained in Article 38 (9 VAC 5–40–5350 *et seq.*) of 9 VAC 5 Chapter 40 requires the owners and operators of perc dry cleaning systems to limit air emissions. The SIP revision is repealing the emission standards of perc, since perc has a negligible photochemical reactivity and has an insignificant impact on ozone formation (61 FR 4588, February 7, 1996).

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *.'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

II. Final Action

EPA is approving the revision to the Virginia SIP repealing the emission standards for perc dry cleaning systems contained in Article 38 (9 VAC 5–40–5350 *et seq.*) of 9 VAC 5 Chapter 40. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 14, 2003 without further notice unless EPA receives adverse comment by January 15, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. 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 the rule in the Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 14,

2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the repeal of emission standards for perc dry cleaning systems from the Virginia SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Recordkeeping and reporting requirements, Volatile organic compounds.

Dated: December 4, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

2. In § 52.2420, the table in paragraph (c) is amended by removing the entry for Chapter 40, Part II, Article 38 Dry Cleaning Systems [Rule 4–38].

[FR Doc. 02–31470 Filed 12–13–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7412–6]

New Jersey: Final Authorization of State Hazardous Waste Program Revision

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.* (''RCRA''), and the regulations thereunder, the State of New Jersey (the ''State'') applied for final authorization of changes to its hazardous waste program. These revisions were adopted by the State in January 1999. The Environmental Protection Agency, Region 2 (''EPA'') has reviewed the State's application and has determined that the State's revisions to its hazardous waste program satisfy all of the requirements necessary to qualify for final authorization. Accordingly, EPA is today approving and authorizing the State's revisions through this immediate final rule. EPA did not publish a proposal before today's rule because it views this as a routine program change to the State's hazardous waste program and does not expect comments that oppose this approval. Consequently, unless EPA receives written comments which oppose this authorization during the comment period, the decision to authorize the revisions to the State's hazardous waste program will take effect as provided below. If EPA receives comments that oppose this action, EPA shall publish a document in the **Federal Register** withdrawing this rule before it takes effect. In addition to this rule, EPA is publishing in the proposed rules section of today's **Federal Register**, a separate notice that proposes to authorize the State's program revisions. This proposal (the ''companion proposal'') will serve as a proposal to authorize the State's program revisions, if necessary, as explained more fully below in the section identifying the effective date of this rule as well as in the companion proposal itself.

DATES: This rule will become effective on February 14, 2003, unless adverse comments are received by January 15, 2003. If EPA receives such comment, EPA will publish a timely withdrawal of this rule in the **Federal Register** and inform the public that this rule will not take effect.

ADDRESSES: Written comments should be sent to Walter M. Mugdan, Director, Division of Environmental Planning and Protection, U.S. EPA, Region 2, 290 Broadway, New York, New York 10007–1866, (212) 637–3724. For further information contact Clifford Ng, Division of Environmental Planning and Protection, USEPA, Region 2, 290 Broadway (22nd Floor) New York, NY 10007–1866; telephone (212) 637–4113; E mail—*ng.clifford@epamail.epa.gov.*

Copies of the State's application for authorization are available for inspection and copying as follows:

The New Jersey Department of Environmental Protection (''NJDEP'')

Address: Public Access Center, NJDEP, 401 East State Street, 1st Floor, Trenton, NJ 08625.

Hours: Monday through Friday (excluding holidays), 8:30 a.m.–1 p.m., 2 p.m.–4:30 p.m.

Telephone: (609) 777–3373.

EPA

Address: EPA Library, 16th Floor, 290 Broadway, New York, NY 10007–1866.

Hours: Monday through Thursday (excluding holidays), 9 a.m.–4:30 p.m., Friday (excluding holidays), 9 a.m.–1 p.m.

Telephone: (212) 637–3185.

FOR FURTHER INFORMATION CONTACT: Clifford Ng, (212) 637–4113.

SUPPLEMENTARY INFORMATION: This rule will become effective on February 14, 2003, unless adverse comments are received during the comment period. In the event that such adverse comments are received, EPA will publish in the **Federal Register** a notice withdrawing this rule before it becomes effective. EPA will then base any further decision on the authorization of the State's program revisions on the companion proposal published in today's **Federal Register** and will address all public comments in a later final rule. Interested persons may not have another opportunity to comment. Therefore, if you want to comment on this authorization, you must do so at this time. If EPA receives comments that oppose only the authorization of a particular revision to the State's hazardous waste program, EPA will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The **Federal Register** notice of withdrawal will specify which part of the authorization will become effective, and which part is being withdrawn.

I. State Authorization Under RCRA

Pursuant to section 3006 of RCRA, 42 U.S.C. 6926, EPA may, upon application by a state, authorize the applicant state's hazardous waste program to operate in the state in lieu of the federal hazardous waste program. For purposes of authorization, the federal hazardous waste program (the ''Federal Program'') is comprised of the regulations published in Title 40 of the Code of Federal Regulations (''CFR'') under the authority of RCRA. To qualify for final authorization, a state's hazardous waste program must: (1) Be equivalent with the Federal Program; (2) be consistent with the Federal Program; and (3) provide for adequate enforcement. RCRA section 3006(b), 42 U.S.C. 6926(b).

II. Background—History of RCRA Authorization Within the State

In 1985, the State was granted final authorization by EPA for the RCRA base program, effective February 21, 1985 (50 FR 5260, 2/7/85). At that time the base program covered the essential core of the Federal Program as reflected in the initial enactment of RCRA prior to its amendment by the Hazardous and Solid Waste Amendments of 1984. In 1988 and 1993 EPA authorized the State for a small number of additional regulations (53 FR 30054, 8/10/88, and 58 FR 59370, 11/9/93).

On October 21, 1996, the State repealed its regulations comprising its then existing hazardous waste program, including those regulations authorized by EPA, and adopted a new program (N.J.A.C. 7:26G–1.1 *et seq.*, 28 New Jersey Register 4606, 10/21/96). As part of this October 21, 1996 adoption, the State adopted, with certain exceptions and modifications, 40 CFR Parts 124, 260–266, 268 and 270 as set forth in the July 1, 1993 CFR, by incorporation by reference, and designated these provisions N.J.A.C. 7:26G–4 through N.J.A.C. 7:26G–13, inclusive. (28 New Jersey Register 4652–4668, 10/21/96. N.J.A.C. 7:26G–4 through N.J.A.C. 7:26G–13 are referred to below as the ''State Program''). Under cover of a letter dated January 13, 1999, the State submitted an application meeting the requirements of 40 CFR Part 271, requesting authorization of the State Program.[1] In August 1999, EPA published a Federal Register notice in which it authorized the State Program. (64 FR 41823, 8/2/99).

III. The January 1999 Adoption and the Scope of the Authorization for Which the State Has Applied

On September 8, 1998, the State proposed various amendments to the State Program, as well as amendments to the procedures by which revisions to the state Program would subsequently be adopted. (30 N.J.R. 3128, 9/8/98). On January 19, 1999, the State adopted the proposed amendments with changes responsive to public comment. (31 N.J.R. 166, 1/19/99, the ''Adoption''). In terms of process, the Adoption amended the New Jersey Administrative Code (''N.J.A.C.'') by establishing a procedure pursuant to which the regulations comprising the Federal Program would subsequently be adopted by prospective incorporation by reference. (N.J.A.C. 7:26G–1.4(b), (c), (e) and (j)–(l), 31 N.J.R. 169–70, 1/19/99). Substantively, the Adoption revised the State Program by incorporating by reference all of the changes to the Federal Program promulgated by EPA from July 2, 1993 through July 31, 1998, with certain specified modifications, and by prospectively incorporating the Federal Program as thereafter amended and supplemented. Since the CFR is current through July 1 of the calendar year in which it is published, this means that in effect the State incorporated by reference the Federal Program as set forth in the July 1998 version of 40 CFR; incorporated by reference all amendments or additions to the Federal Program adopted by EPA from July 2 through July 31, 1998, of which there was only one: 63 FR 37780 (7/14/98), amending subsection 40 CFR 261.5(j); and prospectively incorporated by reference the regulations comprising the Federal Program as subsequently amended and supplemented. (The period from July 2, 1993 through July 31, 1998, shall be referred to below as the ''relevant period'').

Under cover of a letter dated August 22, 2002, the State submitted an application meeting the requirements of 40 CFR Part 271, requesting final authorization of the State Program revisions made in the Adoption with a specified limitation. Thus, in its application, the State limited its request for authorization to those of its regulations which incorporate by reference the changes to the Federal Program promulgated by EPA during the relevant period. Conversely, the State in its application is not requesting to be authorized for those of its regulations which were adopted by means of prospective incorporation by reference of federal regulations promulgated by EPA subsequent to July 31, 1998. (The revisions to the State Program for which the State has requested authorization shall be referred to below as the ''1999 Program Revisions'').

IV. Decision

A. Authorization of the 1999 Program Revisions and the State Program As Revised

EPA has reviewed the State's application and has determined that the 1999 Program Revisions possess the requisite equivalence and consistency with the Federal Program. Furthermore, the State's application indicates that the State possesses the necessary enforcement resources and is prepared to utilize those resources to provide adequate enforcement of the State Program as revised. Accordingly, EPA has determined that the 1999 Program Revisions qualify for authorization and hereby approves and authorizes them.

As noted above, the Adoption adopts the changes to the Federal Program promulgated by EPA during the relevant period, with certain specified modifications. These modifications, however, are not substantive. Rather, they reflect appropriate substitutions of State citations for federal citations, the substitution of State terminology for federal terminology where the subject federal terms are not replaced globally in the State Program's definitions (7:26G–4.2), the exclusion from said definitional section of certain required federal terminology, technical corrections to State rules, and the nonadoption of federal regulations applicable only to facilities outside the State or not otherwise required for authorization. None of these nonsubstantive modifications impact the requisite equivalence or consistency of the State Program as revised, and therefore, pose no obstacle to authorization.

EPA notes that its determination to authorize the 1999 Program Revisions is based on the information submitted to EPA by the State. If the criteria upon which EPA bases its approval subsequently change for any reason, including without limitation changes in State laws, regulations or administrative procedures, or major budgetary changes, which negate the equivalency or consistency of one or more provisions of the 1999 Program Revisions, or in any way limit the State's ability to enforce or properly administer the State Program as revised, EPA may revisit its approval. In such event, EPA may exercise its authority, provided in 40 CFR 271.22, to afford the State an opportunity to correct any program deficiencies, or EPA may withdraw authorization of the 1999 Program Revisions, in whole or in part. Furthermore, authorization of the 1999 Program Revisions by EPA shall not be deemed in any way as a waiver by EPA of any of its statutory rights under RCRA including but not limited to sections 3004(v), 3005(c)(3), 3007, 3008, 3013, 3020(c) and 7003 (42 U.S.C. 6924(v), 6925(c)(3), 6927, 6928, 6934, 6939b(c) and 6973).

B. Exceptions

In 1999, when EPA authorized the State Program, it did so with two important exceptions. These two exceptions are in no way altered by today's action authorizing the 1999 Program Revisions. These two exceptions to EPA's authorization of the State Program, as revised, are specified below.

[1] The State's redesignation of the Parts of the Federal Program adopted by incorporation by reference on October 21, 1996, and comprising the State Program, is as follows: N.J.A.C. 7:26G–4 (40 CFR Part 260); N.J.A.C. 7:26G–5 (40 CFR Part 261); N.J.A.C. 7:26G–6 (40 CFR Part 262); N.J.A.C. 7:26G–7 (40 CFR Part 263); N.J.A.C. 7:26G–8 (40 CFR Part 264); N.J.A.C. 7:26G–9 (40 CFR Part 265); N.J.A.C. 7:26G–10 (40 CFR Part 266); N.J.A.C. 7:26G–11 (40 CFR Part 268); N.J.A.C. 7:26G–12 (40 CFR Part 270); and N.J.A.C. 7:26G–13 (40 CFR Part 124).

(1) *Corrective Action* In its October 1996 adoption, in N.J.A.C. 7:26G–8.1(a), the State incorporated by reference 40 CFR Part 264 , the part of the Federal Program fixing the standards for the owners and operators of hazardous waste treatment, storage and disposal facilities. In the remaining subparagraphs of 7:26G–8.1 [(b) through (h)] the State neither omitted 40 CFR 264.101, 264.552 and 264.553, nor adopted these federal regulations with modifications. Thus, in 1996 the State adopted 40 CFR 264.101, 264.552 and 264.553 by means of incorporation by reference through 7:26G–8.1(a). The above three sections of the Federal Program are the sections implementing the corrective action provisions of RCRA, which provisions were incorporated into RCRA upon the enactment of the Hazardous and Solid Waste Amendments of 1984. The State, despite its adoption of 40 CFR 264.101, 264.552 and 264.553, informed EPA in its 1999 application for authorization of the State Program that it was not applying for authorization for corrective action at that time, and would apply for corrective action authorization under a separate application in the future. Accordingly, in its 1999 **Federal Register** notice authorizing the State Program, while EPA authorized N.J.A.C. 7:26G–8.1(a), EPA did not authorize the State for corrective action, and stated explicitly that 40 CFR 264.101, 264.552 and 264.553 would remain in full force and effect, and that until the State is authorized for corrective action, EPA would continue to issue corrective action permits within the State. (64 FR at 41824, 8/2/99).

In its current application, the State again has not sought authorization for corrective action. Consequently, the State remains unauthorized for corrective action; 40 CFR 264.101, 264.552 and 264.553 remain in full force and effect; and EPA shall continue to issue corrective action permits within the State pursuant to federal permitting regulations, until the State is authorized for corrective action.

(2) *Loss of Interim Status* The second exception evolves the regulations governing the loss of interim status. In its October 1996 adoption, in N.J.A.C. 7:26G–12.1(a), the State incorporated by reference 40 CFR 270.73(a) and (b). The State, however, did not incorporate by reference 40 CFR 270.73(c)-(g). Rather, the State replaced these subparagraphs of 40 CFR 270.73 with 7:26G–12.1(c)(16). Title 40 CFR 270.73 is the regulation in the Federal Program governing the loss of interim status (RCRA section 3005(c)(2)(C) and (e)(2)(3), 42 U.S.C. 6925(c)(2)(C) and (e)(2)(3)). N.J.A.C. 7:26G–12.1(c)(16) provides that the State may terminate interim status at its discretion, under a variety of circumstances subject to a hearing, if requested. By contrast, the federal loss of interim status regulations, excluded by the State and replaced by 7:26G–12.1(c)(16), are non-discretionary and operate automatically, without the opportunity for a hearing, if the requirements cited in these federal provisions are not met. Since 7:26G–12.1(c)(16) is discretionary and lacks automatic application, it is not equivalent to 40 CFR 270.73(c)-(g), is less stringent than 40 CFR 270.73(c)-(g), and therefore, could not be authorized. Consequently, in its 1999 **Federal Register** notice authorizing the State Program, EPA did not authorize the State for N.J.A.C. 7:26G–12.1(c)(16), and stated explicitly that 40 CFR 270.73(c)-(g) would remain in full force and effect.

In the 1999 Program Revisions, the State did not alter the provisions of N.J.A.C. 7:26G–12.1(c)(16) which previously precluded its authorization. Consequently, EPA today is not authorizing the State for N.J.A.C. 7:26G–12.1(c)(16), and 40 CFR 270.73(c)-(g) shall remain in full force and effect.

V. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes the State's requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 9, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, as specified in Executive Order 13175. This action will not have substantial direct effects on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State of New Jersey's RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a state's application for authorization as long as such state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of RCRA, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 28, 2002.

William J. Muszynski,

Deputy Regional Administrator, Region II.

[FR Doc. 02–31015 Filed 12–13–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3087; MM Docket No. 01–144; RM–10142, RM–10340]

Radio Broadcasting Services; Snyder, Littlefield, Wolfforth & Floydada, TX & Hobbs, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed by Charles Crawford requesting an allotment at Snyder, Texas, we shall allot Channel 235C3 in lieu of Channel 237C3 to the community at coordinates 32–42–25 and 101–05–36. *See* 66 FR 37632, July 19, 2001. In response to a counterproposal filed in this proceeding by 21st Century Radio Venture, Inc. and Littlefield Broadcasting, LLC, we shall substitute Channel 238C1 for Channel 238C3 at Littlefield, Texas, reallot Channel 238C1 to Wolfforth, Texas, and modify the license for Station KAIQ accordingly. The coordinates for Channel 238C1 at Wolfforth are 33–33–00 and 102–05–11. To accommodate the allotment at Wolfforth, Station KPER, Hobbs, New Mexico, has consented to a site change. The coordinates for the new site are 32–41–37 and 103–17–24. To further accommodate the Wolfforth allotment, Station KAIQ, Floydada, Texas, has filed a one-step application to modify its license to specify operation on Channel 291C3 in lieu of Channel 237A. The issue of opening the allotment of Channel 235C3 at Snyder, Texas, for auction will be addressed by the Commission in a subsequent order. With this action, this proceeding is terminated.

DATES: Effective December 23, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–144, adopted October 23, 2002, and released November 8, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 235C3 at Snyder, by removing Littlefield, Channel 238C3 and by adding Wolfforth, Channel 238C1.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–31605 Filed 12–13–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991207325–0063–02; I.D. 100699A]

Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Halibut and Sablefish IFQ Cost Recovery Program

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

ACTION: Notice of standard prices and fee percentage for North Pacific halibut and sablefish Individual Fishing Quota (IFQ) cost recovery program.

SUMMARY: The NMFS publishes IFQ standard prices and notification of adjustment of the IFQ fee percentage for the IFQ Cost Recovery Program in the halibut and sablefish fisheries of the North Pacific. This action is required by regulations in 50 CFR part 679. This action is intended to provide holders of halibut and sablefish IFQs with information to calculate the payments required for IFQ cost recovery fees due by January 31, 2003.

DATES: Effective December 16, 2002.

FOR FURTHER INFORMATION CONTACT: Kristie Balovich, Fee Coordinator, 907–586–7344.

SUPPLEMENTARY INFORMATION:

Background

NMFS, Alaska Region, administers the halibut and sablefish IFQ programs in the North Pacific. The IFQ Programs are limited access systems authorized by section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northern Pacific Halibut Act of 1982. Fishing under the IFQ Programs began in March 1995. Regulations implementing the IFQ Program are set forth at 50 CFR part 679.

In 1996, the Magnuson-Stevens Act was amended (by Public Law 104–297) to, among other things, require the Secretary of Commerce to ''collect a fee to recover the actual costs directly related to the management and enforcement of any * * * individual fishing quota program.'' (Section 304(d)(2)(A)). Section 304(d)(2) of the Magnuson-Stevens Act specifies an upper limit on these fees, when the fees must be collected, and where the fees must be deposited. Section 303(d)(4) of the Magnuson-Stevens Act allows

NMFS to reserve up to 25 percent of the fees collected for use in an IFQ loan program to aid in financing the purchase of IFQ or quota share (QS) by entry-level and small-vessel fishermen.

On December 27, 1999, NMFS published a proposed rule to implement the IFQ Cost Recovery Program (64 FR 72302) and published the final rule on March 20, 2000 (65 FR 14919). The final regulations implementing the IFQ Cost Recovery Program are set forth at 50 CFR 679.45.

Under the regulations, an IFQ permit holder incurs a cost recovery fee liability for every pound of IFQ halibut and IFQ sablefish that is landed on his or her IFQ permit(s). The IFQ permit holder is responsible for self-collecting the fee liability for all IFQ halibut and IFQ sablefish landings on his or her permit(s). The IFQ permit holder is also responsible for submitting a fee liability payment to NMFS on or before the due date of January 31 following the year in which the IFQ landings were made. The dollar amount of the fee due is determined by multiplying the annual IFQ fee percentage (3 percent or less) by the ex-vessel value of each IFQ landing made on a permit and summing the totals of each permit (if more than one).

Fee Percentage

Three percent of the ex-vessel value of IFQ halibut and IFQ sablefish harvested is the maximum fee amount allowed by section 304(d)(2)(B) of the Magnuson-Stevens Act. Regulations at § 679.45(d) allow the Administrator, Alaska Region, NMFS (Regional Administrator), to reduce the fee percentage if actual management and enforcement costs could be recovered through a lesser percentage. In this event the Regional Administrator will publish a notification of any adjustment of the IFQ fee percentage in the **Federal Register** pursuant to § 679.45(d)(4).

For 2002, the Regional Administrator has determined that a fee of 2.0 percent (0.02) is necessary to recover the actual management and enforcement costs. Therefore, the Regional Administrator is adjusting the cost recovery fee applicable to year 2002 IFQ landings from 3 percent (0.03) to 2.0 percent (0.02).

Standard Prices

The fee liability is based on the sum of all payments of monetary worth made to fishermen for the sale of the fish. This includes any retro-payments, e.g., bonuses, delayed partial payments, post-season payments, made to the IFQ permit holder for previously landed IFQ halibut or sablefish.

For purposes of calculating IFQ cost recovery fees, NMFS distinguishes between two types of ex-vessel value: ''actual ex-vessel value'' and ''standard ex-vessel value.'' ''Actual ex-vessel value'' is the amount of all compensation, monetary or non-monetary, that an IFQ permit holder received as payment for his or her IFQ fish sold. ''Standard ex-vessel value'' is the default value on which to base fee liability calculations. However, IFQ permit holders have the option of using ''actual ex-vessel value'' if they can satisfactorily document those values.

Regulations at § 679.45(c)(2)(i) require the Regional Administrator to publish IFQ standard prices during the last quarter of each calendar year. These standard prices are used, along with estimates of IFQ halibut and sablefish landings, to calculate standard values. The standard prices are described in U.S. dollars per IFQ equivalent pound, for IFQ halibut and IFQ sablefish landings made during the year. IFQ equivalent pound(s) means the weight amount, recorded in pounds, for an IFQ landing and calculated as round weight for sablefish and headed and gutted (''net'') weight for halibut. NMFS calculates the standard prices to reflect, as closely as possible, by month and port or port-group, the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings. The standard prices for IFQ halibut and IFQ sablefish are listed in the following table. Data from ports are combined as necessary to protect confidentiality of data submissions.

REGISTERED BUYER STANDARD PRICES BY LANDING LOCATION FOR 2002 IFQ SEASON

LANDING LOCATION	PERIOD ENDING	HALIBUT STANDARD PRICE	SABLEFISH STANDARD PRICE
CORDOVA	March 31		
	April 30	$1.99	
	May 31	$1.99	$1.99
	June 30	$2.03	
	July 31	$2.21	
	August 31	$2.44	
	September 30	$2.77	
	October 31	$2.77	
	November 30	$2.77	
DUTCH HARBOR	March 31		
	April 30	$1.83	
	May 31	$1.77	$1.76
	June 30	$1.87	$1.78
	July 31	$1.96	
	August 31	$2.12	$2.10
	September 30	$2.29	$1.95
	October 31	$2.29	$1.95
	November 30	$2.29	$1.95
HOMER	March 31	$2.17	$1.85
	April 30	$2.13	$1.86
	May 31	$1.97	
	June 30	$2.07	
	July 31	$2.19	$2.18
	August 31	$2.54	$2.17
	September 30	$2.90	
	October 31	$2.90	
	November 30	$2.90	

REGISTERED BUYER STANDARD PRICES BY LANDING LOCATION FOR 2002 IFQ SEASON—Continued

LANDING LOCATION	PERIOD ENDING	HALIBUT STANDARD PRICE	SABLEFISH STANDARD PRICE
KETCHIKAN	March 31		
	April 30		
	May 31	$2.06	
	June 30		
	July 31	$2.20	
	August 31	$2.40	
	September 30	$2.74	
	October 31	$2.74	
	November 30	$2.74	
KODIAK	March 31	$2.13	
	April 30	$1.89	$1.98
	May 31	$1.34	$1.98
	June 30	$1.91	$2.04
	July 31	$1.97	$2.20
	August 31	$2.23	
	September 30	$2.56	$2.34
	October 31	$2.56	$2.34
	November 30	$2.56	$2.34
PETERSBURG	March 31	$2.06	
	April 30	$2.04	
	May 31	$2.03	$2.03
	June 30	$2.02	
	July 31	$2.08	
	August 31	$2.37	
	September 30	$2.71	
	October 31	$2.71	
	November 30	$2.71	
SEWARD	March 31	$2.28	$2.01
	April 30	$2.07	$1.94
	May 31	$1.92	$1.94
	June 30	$1.99	$2.03
	July 31		
	August 31		
	September 30	$2.73	$2.40
	October 31	$2.73	$2.40
	November 30	$2.73	$2.40
SITKA	March 31		
	April 30	$1.95	
	May 31		
	June 30		
	July 31		
	August 31		
	September 30	$2.68	
	October 31	$2.68	
	November 30	$2.68	

REGISTERED BUYER STANDARD PRICES BY PORT GROUP FOR 2002 IFQ SEASON

PORT GROUP	PERIOD ENDING	HALIBUT STANDARD PRICE	SABLEFISHSTANDARD PRICE
[1]BERING SEA	March 31		
	April 30	$1.70	$1.78
	May 31	$1.76	$1.82
	June 30	$1.84	$1.90
	July 31	$1.93	$1.98
	August 31	$2.07	$2.11
	September 30	$2.25	$2.00
	October 31	$2.25	$2.00
	November 30	$2.25	$2.00

REGISTERED BUYER STANDARD PRICES BY PORT GROUP FOR 2002 IFQ SEASON—Continued

PORT GROUP	PERIOD ENDING	HALIBUT STANDARD PRICE	SABLEFISHSTANDARD PRICE
[2]CENTRAL GULF	March 31	$2.19	$1.98
	April 30	$2.04	$2.04
	May 31	$1.75	$1.99
	June 30	$1.98	$2.07
	July 31	$2.07	$2.15
	August 31	$2.46	$2.23
	September 30	$2.67	$2.44
	October 31	$2.67	$2.44
	November 30	$2.67	$2.44
[3]SOUTHEAST	March 31	$2.14	$2.06
	April 30	$2.05	$2.04
	May 31	$2.04	$2.09
	June 30	$2.03	$2.22
	July 31	$2.17	$2.28
	August 31	$2.37	$2.34
	September 30	$2.72	$2.64
	October 31	$2.72	$2.64
	November 30	$2.72	$2.64
[4]ALL	March 31	$2.16	$2.03
	April 30	$2.03	$2.02
	May 31	$1.83	$2.00
	June 30	$1.97	$2.11
	July 31	$2.04	$2.14
	August 31	$2.26	$2.23
	September 30	$2.60	$2.49
	October 31	$2.60	$2.49
	November 30	$2.60	$2.49

[1] Landing locations Within Port Group - Bering Sea: Adak, Akutan, Akutan Bay, Atka, Bristol Bay, Chefornak, Dillingham, Captains Bay, Dutch Harbor, Egegik, Ikatan Bay, Hooper Bay, King Cove, King Salmon, Kipnuk, Mekoryuk, Naknek, Nome, Quinhagak, Savoonga, St. George, St. Lawrence, St. Paul, Togiak, Toksook Bay, Tununak, Beaver Inlet, Ugadaga Bay, Unalaska.

[2] Landing Locations Within Port Group - Central Gulf of Alaska: Anchor Point, Anchorage, Chignik, Cordova, Eagle River, False Pass, West Anchor Cove, Girdwood, Chinitna Bay, Halibut Cove, Homer, Kasilof, Kenai, Kenai River, Alitak, Kodiak, Port Bailey, Nikiski, Ninilchik, Old Harbor, Palmer, Sand Point, Seldovia, Resurrection Bay, Seward, Valdez.

[3] Landing Locations Within Port Group - Southeast Alaska: Angoon, Baranof Warm Springs, Craig, Edna Bay, Elfin Cove, Excursion Inlet, Gustavus, Haines, Hollis, Hoonah, Hyder, Auke Bay, Douglas, Tee Harbor, Juneau, Kake, Ketchikan, Klawock, Metlakatla, Pelican, Petersburg, Portage Bay, Port Alexander, Port Graham, Port Protection, Point Baker, Sitka, Skagway, Tenakee Springs, Thorne Bay, Wrangell, Yakutat.

[4] Landing Locations Within Port Group - All: For Alaska: All landing locations included in 1, 2, and 3. For California: Eureka, Fort Bragg, Other California. For Oregon: Astoria, Aurora, Lincoln City, Newport, Warrenton, Other Oregon. For Washington: Anacortes, Bellevue, Bellingham, Nagai Island, Edmonds, Everett, Granite Falls, Ilwaco, La Conner, Port Angeles, Port Orchard, Port Townsend, Ranier, Fox Island, Mercer Island, Seattle, Standwood, Other Washington. For Canada: Port Hardy, Port Edward, Prince Rupert, Vancouver, Haines Junction, Other Canada.

Dated: December 4, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–31447 Filed 12–13–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 241
Monday, December 16, 2002

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Docket No. FV02–369]

RIN 0581–AC21

Perishable Agricultural Commodities Act (PACA): Amending Regulations To Extend PACA Coverage to Fresh and Frozen Fruits and Vegetables That Are Coated or Battered

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture (USDA) is proposing to amend the regulations under the Perishable Agricultural Commodities Act (PACA or Act) to extend PACA coverage to include fresh and frozen fruits and vegetables that are coated or battered to maintain taste, color, and/or texture prior to or after cooking. It is USDA's opinion that coated or battered fruits and vegetables are covered under the PACA since the process of coating or battering does not alter the character of the end product. USDA seeks to codify its position so that all dealers of perishable agricultural commodities are properly on notice as to the scope of products covered by PACA regulations.

DATES: Comments must be received by January 15, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to Dexter Thomas, Senior Marketing Specialist, PACA Branch, F & V Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 2095–So. Bldg., Washington, DC 20250–0242. E-mail *dexter.thomas@usda.gov.* All comments should reference the docket number and the date and page number of this issue in the **Federal Register** and will be made available for public inspection in the PACA Branch during regular business hours and posted on the Internet at *www.ams.usda.gov/fv/paca.htm.*

FOR FURTHER INFORMATION CONTACT: James R. Frazier, Chief, PACA Branch, Room 2095–So. Bldg., Fruit and Vegetable Programs, AMS, USDA, Washington, DC 20250, Phone (202) 720–2272.

SUPPLEMENTARY INFORMATION: This proposal is issued under authority of section 15 of the PACA (7 U.S.C. 499o).

The Perishable Agricultural Commodities Act (PACA or Act) establishes a code of fair trade practices covering the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce. The PACA protects growers, shippers, distributors, and retailers dealing in those commodities by prohibiting unfair and fraudulent trade practices. In this way, the law fosters an efficient nationwide distribution system for fresh and frozen fruits and vegetables, benefiting the whole marketing chain from farmer to consumer. USDA's Agricultural Marketing Service (AMS) administers and enforces the PACA.

The PACA also imposes a statutory trust for the benefit of unpaid sellers or suppliers on all perishable agricultural commodities received by a commission merchant, dealer, or broker and all inventories of food or other products derived from the sale of such commodities or products. Sellers who preserve their trust rights are entitled to payment ahead of other creditors, from trust assets, of money owed on past due accounts.

In January 2000, the largest food service distributor in the United States filed for chapter 11 bankruptcy protection. The company, which listed over $30 million in produce debt, settled all PACA trust claims except five that involved over $11 million in coated and battered potato products. The firm contended that the coated and battered potatoes were not covered under the PACA trust provisions (7 U.S.C. 499 (e) c). As a result of the disputed bankruptcy claims, the Frozen Potato Products Institute (FPPI), a national trade association whose members are frozen potato processors accounting for 95 percent of all frozen potato products in the United States, in June 2000, asked AMS for a written advisory opinion to clarify whether or not coated or battered potato products are covered under the PACA.

The majority of FPPI's members coat or batter their potato products to preserve their color and crispness while under heat lamps after cooking. The operation involves dipping potato strips into a mixture of water and natural vegetable starch (*e.g.*, potato or rice). Subsequently, a crisping agent such as dextrin and/or a chemical leavening agent are added to the product. The product is then air blown to remove all but a thin layer of coating, oil-blanched, and then finally frozen.

Coated or battered products are in great demand by fast food restaurants and consumers because the operation preserves the color and crispness of potatoes held under heat lamps, a common practice in fast food restaurants, although it does not alter the taste or texture of the product. Frozen potato processors have seen dramatic growth in the market for coated potatoes since the technology was first introduced in the early 1990's, and FPPI states that it expects that trend to continue. The food service distributor that filed for bankruptcy protection supplied approximately 36,000 restaurants throughout the United States.

According to FPPI, 8.2 billion pounds of frozen potato products were produced in the United States from April 1999 to April 2000. Out of that total, approximately 26 percent were coated or battered, accounting for 2.1 billion pounds of potato products with a market value exceeding $800 million.

In its response to FPPI, dated August 16, 2000, AMS concluded that coating or battering does not alter the essential character of the potato products because the operation leaves them virtually indistinguishable in appearance and texture from those that have not been coated or battered. The operation, AMS stated, is directly analogous to those described in 7 CFR 46.2(u) that may be performed on a perishable agricultural commodity without changing the commodity into a food of a different kind or character. In addition, the use of starches in the operation likely has less of an impact on the texture or essential character of the potato than other processes already expressly accepted in CFR 46.2(u), such as chopping, oil blanching, and adding sugar or other sweetening agents.

FPPI is now asking that USDA amend the PACA regulations' definition of ''fresh fruits and fresh vegetables'' (7 CFR 42 (u), to expressly extend PACA coverage to perishable agricultural commodities that have been coated or battered. In its petition of June 21, 2001, FPPI requested that AMS codify its August 2000 opinion to ensure that all dealers of perishable agricultural commodities are properly on notice as to the scope of products covered by PACA regulations.

Executive Orders 12866 and 12988

This proposed rule, issued under the Perishable Agricultural Commodities Act (7 U.S.C. 499 *et. seq.*), has been determined to be not significant for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Effects on Small Businesses

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those whose annual receipts are less than $5,000,000. There are approximately 15,700 firms licensed under the PACA, many of which could be classified as small entities.

AMS recognizes that frozen potato products represent the largest single frozen commodity in the United States. PACA coverage of such commodities would affect countless growers, shippers, processors, and distributors who deal in the commodities, most of which are small businesses. To exclude over 26 percent of frozen potato products from coverage of the PACA is inconsistent with the intent of Congress in enacting the PACA to protect producers and dealers of fresh and frozen fruits and vegetables.

This regulatory amendment is being proposed in response to the petition of the frozen food industry to codify USDA's opinion that the coating or battering of fruits and vegetables is an operation that is not considered as changing a commodity into a food of a different kind or character. Producers and distributors of coated and battered product would benefit since they would have the same rights as those afforded other processors and suppliers whose product may be indistinguishable in appearance or texture, but not coated or battered. AMS believes that codifying this opinion will help reduce litigation time and expenses for small produce businesses that seek to enforce their trust rights in federal district courts.

Given the preceding discussion, AMS has made an initial determination that the provisions of this proposed rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements that are covered by this proposed rule were approved under OMB number 0581–0031 on September 30, 2001, and expire on September 30, 2004.

List of Subjects in 7CFR Part 46

Agricultural commodities, Brokers, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 46 is proposed to be amended as follows:

PART 46—[AMENDED]

1. The authority citation for part 46 continues to read as follows:

Authority: Sec. 15, 46 Stat. 537; 7 U.S.C. 499o.

2. In § 46.2, paragraph (u) would be revised to read as follows:

§ 46.2 Definitions.

* * * * *

(u) *Fresh fruits and fresh vegetables* include all produce in fresh form generally considered as perishable fruits and vegetables, whether or not packed in ice or held in common or cold storage, but does not include those perishable fruits and vegetables which have been manufactured into articles of food of a different kind or character. The effects of the following operations shall not be considered as changing a commodity into a food of a different kind or character: Water, steam, or oil blanching, battering, coating, chopping, color adding, curing, cutting, dicing, drying for the removal of surface moisture; fumigating, gassing, heating for insect control, ripening and coloring; removal of seed, pits, stems, calyx, husk, pods rind, skin, peel, et cetera; polishing, precooling, refrigerating, shredding, slicing, trimming, washing with or without chemicals; waxing, adding of sugar or other sweetening agents; adding ascorbic acid or other agents to retard oxidation; mixing of several kinds of sliced, chopped, or diced fruit or vegetables for packaging in any type of containers; or comparable methods of preparation.

* * * * *

Dated: December 9, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–31583 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV03–916–1]

Nectarines, Pears, and Peaches Grown in California; Continuance Referenda

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referenda order.

SUMMARY: This document directs that referenda be conducted among eligible growers of California nectarines, pears, and peaches to determine whether they favor continuance of the marketing orders regulating the handling of nectarines, pears, and peaches grown in the production area.

DATES: The referenda will be conducted from January 6 through January 31, 2003. To vote in these referenda, growers must have been producing California nectarines, pears, and peaches during the period April 1 through November 30, 2002.

ADDRESSES: Copies of the marketing orders may be obtained from the office of the referenda agents at 2202 Monterey Street, Suite 102B, Fresno, California 93721, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture (USDA), 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237.

FOR FURTHER INFORMATION CONTACT: Kurt J. Kimmel or Terry Vawter, California Marketing Field Office, Marketing Order Administration Branch, Fruit and

Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (559) 487–5901; fax (559) 487–5906; or Kathleen Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Ave., SW., Stop 0237, Washington, DC 20250–0237; telephone (202) 720–2491; fax (202) 720–8938.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 916 (7 CFR part 916) and Marketing Order No. 917 (7 CFR part 917), hereinafter referred to as the ''orders,'' and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' it is hereby directed that referenda be conducted to ascertain whether continuance of the orders is favored by growers. The referenda shall be conducted during the period January 6 through January 31, 2003, among California nectarine, pear, and peach growers in the production area. Only growers that were engaged in the production of California nectarines, pears, and peaches during the period of April 1 through November 30, 2002, may participate in the continuance referenda.

Although pears are included under the provisions of M.O. 917, those provisions have been suspended since April 1994. Since that time, the pear industry has been regulated by a State marketing order. If the results of the pear referendum do not favor continuance, the pear order will be terminated. Otherwise, this suspension will remain in effect unless the pear industry recommends reactivation of the federal program.

USDA has determined that continuance referenda are an effective means for determining whether growers favor continuation of marketing order programs. The USDA would consider termination of the orders if less than two-thirds of the growers voting in the referenda and growers of less than two-thirds of the volume of California nectarines, pears, and peaches represented in the referenda favor continuance. In evaluating the merits of continuance versus termination, the USDA will not only consider the results of the continuance referenda. The USDA will also consider all other relevant information concerning the operation of the orders and the relative benefits and disadvantages to growers, handlers, and consumers in order to determine whether continued operation of the orders would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the ballot materials used in the referenda herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0189 for nectarines, pears, and peaches. It has been estimated that it will take an average of 30 minutes for each of the approximately 2,130 growers of California nectarines, pears, and peaches to cast a ballot. Participation is voluntary. Ballots postmarked after January 31, 2003, will not be included in the vote tabulation.

Kurt J. Kimmel and Terry Vawter of the California Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, are hereby designated as the referenda agents of USDA to conduct such referenda. The procedure applicable to the referenda shall be the ''Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended'' (7 CFR part 900.400 et. seq).

Ballots will be mailed to all growers of record and may also be obtained from the referenda agents and from their appointees.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: December 9, 2002.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–31582 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 71, 82, and 94

[Docket No. 00–107–1]

RIN 0579–AB31

Salmonella Enteritidis Phage-Type 4; Remove Import Restrictions and Salmonella Enteritidis serotype Enteritidis; Remove Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to remove import restrictions on eggs (other than hatching eggs) of poultry, game birds, and other birds from regions where *Salmonella enteritidis* phage-type 4 exists. Previously, *Salmonella enteritidis* phage-type 4 had not been isolated in the United States; therefore, those import restrictions were necessary to help prevent *Salmonella enteritidis* phage-type 4 from being introduced into this country. However, *Salmonella enteritidis* phage-type 4 is now known to be present in the United States. This action would eliminate restrictions on the importation of eggs from regions where *Salmonella enteritidis* phage-type 4 exists. We are also proposing to remove our regulations regarding poultry disease caused by *Salmonella enteritidis* serotype *enteritidis.*

These regulations are no longer enforced, and it is necessary to remove them to make our regulations consistent with our enforcement.

DATES: We will consider all comments that we receive on or before February 14, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00–107–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–107–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 00–107–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Assistant Director, Sanitary International Standards Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–3577.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases including *Salmonella enteritidis* phage-type 4. *S. enteritidis* phage-type 4 is one of several kinds of *Salmonella* bacteria, and it has been isolated and identified as the cause of numerous outbreaks of salmonellosis in poultry in many parts of the world. Additionally, it has become one of the most prevalent serotypes causing salmonellosis in humans.

In this document, we are proposing to remove the import restrictions related to *S. enteritidis* phage-type 4 contained in part 94, as well as the interstate movement restrictions related to *S. enteritidis* serotype *enteritidis* contained in our regulations in 9 CFR parts 71 and 82 (*S. enteritidis* phage-type 4 is one of several strains of *S. enteritidis* serotype *enteritidis*). As explained in greater detail in the following paragraphs, the regulations in parts 71 and 82 regarding poultry disease caused by *Salmonella enteritidis* serotype *enteritidis* are no longer enforced, and it is necessary to remove them to make our regulations consistent with our enforcement. Further, because those interstate movement restrictions are not enforced, it is necessary to remove the import restrictions in part 94 in order to eliminate, consistent with our obligations under international agreements, import requirements that are more restrictive than our domestic movement requirements.

When *S. enteritidis* phage-type 4 was first identified as affecting poultry, it was seen as a serious threat. *S. enteritidis* phage-type 4 can cause significant mortality in poultry flocks, sometimes as high as 20 percent. Once introduced, salmonellosis can spread rapidly throughout a flock. It may also be passed from one generation to the next by transovarial transmission and eggshell penetration.

The regulations in § 94.6 restrict, among other things, the importation of eggs (other than hatching eggs) into the United States that were produced by poultry, game birds, or other birds that were raised in any region where *S. enteritidis* phage-type 4 is considered to exist, imported from any region where S. enteritidis phage-type 4 is considered to exist, or moved into or through any region where *S. enteritidis* phage-type 4 is considered to exist at any time before importation or during shipment to the United States. Canada is listed in § 94.6(b)(2) as the only region considered to be free of *S. enteritidis* phage-type 4.

At the time the import restrictions in § 94.6 concerning *S. enteritidis* phage-type 4 were established, *S. enteritidis* phage-type 4 had not been isolated in the United States, so these import restrictions were necessary to help prevent the introduction of the disease into this country. However, in May of 1994, *S. enteritidis* phage type 4 was detected in the State of California in a commercial layer flock. Since that initial detection, *S. enteritidis* phage-type 4 has been found in flocks across the United States.

State and Federal programs are in place to monitor and control *S. enteritidis* phage-type 4 in the United States. In addition to State laws, the cooperative State/Federal/industry National Poultry Improvement Plan includes a ''U.S. S. Enteritidis Clean'' program for certifying the freedom of hatching eggs and chicks from *S. enteritidis*.

There are regulations in subpart C of 9 CFR part 82 that contain, in part, restrictions on the interstate movement of eggs from flocks affected with *S. enteritidis* serotype *enteritidis*. As noted previously, *S. enteritidis* phage-type 4 is one of several strains of *S. enteritidis* serotype *enteritidis*.

There are also regulations in 9 CFR 71.3(a) that prohibit the interstate movement of poultry and animals affected by certain diseases, including *S. enteritidis* serotype *enteritidis*, with certain exceptions. Specifically, paragraph (c)(4) of § 71.3 provides that poultry affected with disease caused by *S. enteritidis* serotype *enteritidis* may be moved interstate in accordance with 9 CFR part 82.

However, the regulations regarding *S. enteritidis* in subpart C of part 82 and § 71.3 are no longer enforced and have not been enforced since the mid-1990s. In 1995, as a result of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, October 13, 1994), the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) received the authority and resources to support pathogen reduction programs relating to *S. enteritidis*, including the authority to administer and enforce the regulations in subpart C of part 82 and § 71.3. This reorganization streamlined authority to allow FSIS to control and monitor *S. enteritidis* as, primarily, a human health concern. Then, in fiscal year 1996, Congress determined that the egg industry had developed its own *S. enteritidis* program and deferred funding for the enforcement of the regulations regarding *S. enteritidis* in subpart C of part 82 and § 71.3 and for other Federal *S. enteritidis* programs.

Because those regulations are no longer enforced, flocks in the United States that are affected with *S. enteritidis* serotype *enteritidis*, including phage-type 4, are not subject to the interstate movement restrictions contained in § 71.3 and subpart C of part 82. We are, therefore, proposing to amend § 71.3 by removing its references to *S. enteritidis* serotype *enteritidis* and to amend part 82 by removing subpart C.

Additionally, because *S. enteritidis* phage-type 4 is known to exist in the United States and the movement of eggs from affected flocks is not subject to interstate movement or other restrictions, we are proposing to remove the import restrictions in § 94.6 on the importation of eggs (other than hatching eggs) of poultry, game birds, and other birds from regions where *S. enteritidis* phage-type 4 exists to eliminate import requirements that are more restrictive than our domestic movement requirements. Removing those provisions would mean that the definitions in § 94.0 for the terms *Salmonella enteritidis, Salmonella enteritidis, phage-type 4*, and *Salmonellosis* would no longer be needed. We would, therefore, remove those definitions from § 94.0.

Miscellaneous

We are also proposing to remove a reference in § 94.6 to Velogenic Viscerotropic Newcastle Disease (VVND). This disease is now called Exotic Newcastle Disease (END) and is referred to as such elsewhere in our regulations. Additionally, we are proposing to correct a footnote in § 94.6. This footnote refers to ''Operational Support'' staff, which is an outdated title. The new name for that staff is ''Animal Health Programs.'' We would also make several nonsubstantive editorial changes to the regulations for clarity and consistency.

Executive Order 12866 and Regulatory Flexibility Act

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

We are proposing to amend the regulations to remove import restrictions on eggs (other than hatching eggs) of poultry, game birds, and other birds from regions where *S. enteritidis* phage-type 4 exists. Previously, *S. enteritidis* phage-type 4 had not been isolated in the United States; therefore, those import restrictions were necessary to help prevent *S. enteritidis* phage-type 4 from being introduced into this country. However, *S. enteritidis* phage-type 4 is now known to be present in the United States. This action would eliminate restrictions on the importation of eggs from regions where *S. enteritidis* phage-type 4 exists. We are also proposing to remove our regulations regarding poultry disease caused by *S. enteritidis* serotype *enteritidis*. These regulations are no longer enforced, and it is necessary to remove them to make our regulations consistent with our enforcement.

The following analysis, which also serves as our cost-benefit analysis, considers the potential economic effects of this proposed rule on domestic egg producers.

S. enteritidis phage-type 4 is considered to exist in all parts of the world except Canada. Under the current regulations, the importation of eggs (other than hatching eggs) from or through regions affected with *S. enteritidis* phage-type 4 is restricted, but not prohibited. However, in 1999, the last year for which relevant census information is available, the United States imported only 5.8 million dozen eggs (other than hatching eggs), which is equivalent to less than 0.1 percent of U.S. production that year. Eighty percent of these shell egg imports were from China. Imported eggs from Canada, the only region not subject to import restrictions because of its freedom from *S. enteritidis* phage-type 4, accounted for less than 1 percent of all U.S. shell egg imports in 1999.

The United States does not export a significant amount of its egg supply. In 1999, the United States exported 117 million dozen eggs (other than hatching eggs), which is equivalent to only 2 percent of the U.S. nonhatching egg production for that year. As these figures indicate, virtually all eggs produced in the United States are consumed domestically.

After China, the United States is the world's second largest egg producer. In China and other top egg-producing countries, including Japan, India, Russia, Mexico, and France, virtually all eggs produced are consumed domestically. Combined, these 6 countries exported 122 million dozen eggs in 1999, less than 1 percent of their combined production that year. While the Netherlands exported the most eggs (226 million dozen), that region is not among the top 7 egg-producing nations. Mexico reported no egg exports between 1996 and 1999.

We expect that this proposed rule would have little or no effect on U.S. producers, large or small, for the following reasons:

- Current restrictions on eggs (other than hatching eggs) from regions where END exists are quite similar to the restrictions regarding *S. enteritidis* phage-type 4 that we are proposing to remove.
- END is considered to exist in five of the top six foreign egg-producing regions. Therefore, with the exception of France, where END is not considered to exist, import restrictions on eggs would still be in place for the regions most likely to export eggs to the United States.
- Transporting eggs to the United States from foreign markets is expensive.
- Egg production in the United States is highly mechanized, which offsets potential cost advantages that foreign producers may have over U.S. producers with regard to labor wage rates.

Based on these considerations, we believe that the proposed removal of the restrictions on the importation of eggs from regions where *S. enteritidis* phage-type 4 exists would not result in any appreciable increase in egg imports or otherwise affect domestic egg producers.

Additionally, we do not expect any impact on domestic egg producers or other poultry producers to result from our proposed removal of the regulations regarding *S. enteritidis* in subpart C of part 82 and § 71.3 since these regulations are no longer enforced and have not been enforced since fiscal year 1995.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects

9 CFR Part 71

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

9 CFR Part 82

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

9 CFR Part 94

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

Accordingly, we propose to amend 9 CFR parts 71, 82, and 94 as follows:

PART 71—GENERAL PROVISIONS

1. The authority citation for part 71 would be revised to read as follows:

Authority: 7 U.S.C. 8304–8306, 8308, 8310, 8313, and 8315; 7 CFR 2.22, 2.80, and 371.4.

§ 71.3 [Amended]

2. Section § 71.3 would be amended as follows:

a. In paragraph (a), by removing the words ''poultry disease caused by *Salmonella enteritidis* serotype *enteritidis*,''.

b. By removing paragraph (c)(4) and redesignating paragraph (c)(5) as paragraph (c)(4).

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS

3. The authority citation for part 82 would continue to read as follows:

Authority: 7 U.S.C. 8304–8306, 8308, 8313, and 8315; 7 CFR 2.22, 2.80, and 371.4.

4. The title for part 82 would be revised to read as above.

Subpart C—[Removed]

5. In part 82, subpart C (§§ 82.30 through 82.38) would be removed.

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

6. The authority citation for part 94 would continue to read as follows:

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

§ 94.0 [Amended]

7. Section 94.0 would be amended by removing the definitions of *Salmonella enteritidis, Salmonella enteritidis, phage-type 4*, and *Salmonellosis*.

8. Section 94.6 would be amended as follows:

a. By revising the section heading to read as follows.

b. By removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively.

c. In newly redesignated paragraph (b)(2), by removing the comma after the word ''Administrator'' and, at the end of the paragraph, by removing the word ''him'' and adding the words ''the Administrator'' in its place.

d. In newly redesignated paragraph (b)(6), in the first sentence, by removing the words ''paragraph (c)'' and adding the words ''paragraphs (b)(1) through (b)(5)'' in their place and by removing the words '',Veterinary Services'', and, in the third sentence, by removing the words ''paragraph (e)'' and adding the words ''paragraph (d)'' in their place.

e. In newly redesignated paragraph (c), by revising the paragraph heading and the introductory text to read as follows.

f. In newly redesignated paragraph (c)(1)(ix)(C)(*1*), footnote 7, by removing the words ''Operational Support,'' and adding the words ''Animal Health Programs,'' in their place.

g. In newly redesignated paragraph (c)(1)(ix)(C)(*2*), in the last sentence, by removing the word ''VVND'' and adding the word ''END'' in its place.

h. By removing newly redesignated paragraph (c)(1)(x).

i. In newly redesignated paragraph (c)(2), in the last sentence, by removing the words ''or *S. enteritidis*, phage-type 4,''.

j. In newly redesignated paragraph (c)(3), by removing the words ''or *S. enteritidis*, phage-type 4,'' both times they occur, and by removing the words ''paragraph (e)'' and adding the words ''paragraph (d)'' in their place.

k. In newly redesignated paragraph (c)(4), by removing the words ''or *S. enteritidis*, phage-type 4,'' both times they occur, and by removing the words ''paragraph (e)'' and adding the words ''paragraph (d)'' in their place.

§ 94.6 Carcasses, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds; importations from regions where Exotic Newcastle Disease is considered to exist.

* * * * *

(c) *Eggs (other than hatching eggs) from regions where END is considered to exist.* Eggs (other than hatching eggs [6]) from poultry, game birds, or other birds may be imported only in accordance with this section if they: Are laid by poultry, game birds, or other birds that are raised in any region where END is considered to exist (see paragraph (a) of this section); are imported from any region where END is considered to exist; or are moved into or through any region where END is considered to exist at any time before importation or during shipment to the United States.

* * * * *

Done in Washington, DC, this 11th day of December 2002.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 02–31569 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–34–P

[6] The requirements for importing hatching eggs are contained in part 93 of this chapter.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commisison

18 CFR Part 35

[Docket Nos RM01–12–000; RM02–1–000; RM02–12–000]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Market Design; Standardization of Generator Interconnection and Procedures; Standardization of Small Generator Interconnection Agreements and Procedures

December 3, 2002.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of technical conference.

SUMMARY: To advance the work related to the referenced proceedings and the transmission pricing issue, on January 21, 2003, Commission staff will hold a technical conference on queuing of interconnection requests. The conference will discuss specific issues related to interconnection queuing practices and procedures. Further details about the conference, including details about how to request participation in the conference as a panelist, will be provided in supplemental notices.

DATES: Conference will be held on: January 21, 2003.

ADDRESSES: Send requests to speak to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Norma McOmber, Office of Markets, Tariffs and Rates—Division of Policy, Analysis and Rulemakings, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8022, *Norma.McOmber@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Electricity Market Design and Structure

[Docket No. RM01–12–000]

Standardization of Generator Interconnection Agreements and Procedures

[Docket No. RM02–01–000]

Standardization of Small Generator Interconnection Agreements and Procedures

[Docket No. RM02–12–000]

Notice of Technical Conference

To advance work related to the referenced proceedings and the transmission pricing issue, Commission staff will hold a technical conference on queuing of interconnection requests.

This technical conference will be held on January 21, 2003, from approximately 9:30 a.m. to 5 p.m. at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. The conference is open to the public, and registration is not required. Members of the Commission may attend and participate in the discussions.

The conference will discuss specific issues related to interconnection queuing practices and procedures, such as: whether queue position should be treated as a property right; whether the Commission should introduce due diligence requirements to prevent cancelled or delayed plants from delaying other units in the queue; how to manage the queue to best serve regional infrastructure planning, grid management, and infrastructure development needs while improving certainty for infrastructure developers; whether the Commission should standardize queue management practices across regions and RTOs or establish a set of national core principles; the most effective method for analyzing impacts of uncertain combinations of loads and generators on the grid; a critical look at current ISO/RTO interconnection queue management practices; whether small (<20MW) generator impacts on the grid warrant different analysis and queuing treatment for small generators; and interconnection queue experiences.

Further details about the conference, including information regarding how to request participation in the conference as a panelist, will be provided in supplemental notices. The staff contact person for this conference is Norma McOmber (202–502–8022 or e-mail *Norma.McOmber@FERC.GOV*).

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646), for a fee. They will be available for the public on the Commission's FERRIS system two weeks after the conference. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements, should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection website at *http://www.capitolconnection.gmu.edu* and click on ''FERC.''

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02–31580 Filed 12–13–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Pittsburgh–02–019]

RIN 2115–AA97

Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, West Virginia

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a security zone encompassing all waters extending 200 feet from the water's edge of the left descending bank of the Ohio River, beginning from mile marker 119.0 and ending at mile marker 119.8. This security zone is necessary to protect Pittsburgh Plate Glass Industries (PPG), persons, and vessels from subversive or terrorist acts. Entry of persons or vessels into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port Pittsburgh or designated representative.

DATES: Comments and related material must reach the Coast Guard on or before February 14, 2003.

ADDRESSES: You may mail comments and related material to Marine Safety Office Pittsburgh, Suite 1150 Kossman Bldg., 100 Forbes Ave., Pittsburgh, PA 15222–1371. Marine Safety Office Pittsburgh 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 at Marine Safety Office Pittsburgh, Suite 1150 Kossman Bldg., 100 Forbes Ave., Pittsburgh, PA between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer (PO) Michael Marsula, Marine Safety Office Pittsburgh at (412) 644–5808 x2114.

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 [COTP Pittsburgh 02–019], 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 that your submission 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. But you may submit a request for a meeting by writing to Marine Safety Office Pittsburgh 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 separate notice in the **Federal Register**.

Background and Purpose

The Captain of the Port Pittsburgh established a temporary security zone for the area adjacent to PPG that expired on June 15, 2002. [COTP Pittsburg–02–001, 67 FR 9589] No comments or objections were received concerning this rule. National security and intelligence officials have warned that future terrorist attacks against civilian targets are anticipated. In response to those continued threats, heightened awareness and security of our ports and harbors is necessary. The Captain of the Port has established a temporary security zone for this area [COTP Pittsburgh–02–019, 67 FR 58332]. That temporary final rule was published in the **Federal Register** on September 16, 2002 and remains in effect until February 15, 2003.

The Captain of the Port has determined that there is a need for this security zone to remain in effect indefinitely because of the continued threat of terrorism and the nature of material handled at PPG. The proposed rule will establish a permanent security zone identical to the previous and existing zones.

Discussion of Proposed Rule

A security zone is proposed for all water extending 200 feet from the water's edge of the left descending bank of the Ohio River from mile marker 119.0 to 119.8. All persons and vessels would be prohibited from entering or remaining in this zone without the permission of the Captain of the Port

Pittsburgh or his designated representative.

The zone is designed to increase protection around the PPG facility in Natrium, West Virginia. It increases the opportunity for detection of a waterborne attack on the facility and consequently enhances public health and safety through providing greater defense and security at this location and its surrounding areas. The location of this security zone will limit access to only the waters immediately adjacent to the facility and will permit vessels to safely navigate around the zone. The establishment of this security zone will have minimal impact on maritime traffic in the vicinity of the facility.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 10(e) of the regulatory policies and procedures of DOT is unnecessary. This rule will not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. Vessels may be permitted to enter the security zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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. The Coast Guard is unaware of any small entities that would be impacted by this proposed rule. The navigable channel remains open to all vessel traffic. We received no comments or objections regarding the previous security zone covering the same area.

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 (Public Law 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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Michael Marsula, Marine Safety Office Pittsburgh at (412) 644–5808 x2114.

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

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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.

Civil Justice Reform

This proposed rule 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.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A ''Categorical Exclusion

Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.822 to read as follows:

§ 165.822 Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, West Virginia.

(a) *Location.* The following area is a security zone: the waters of the Ohio River, extending 200 feet from the water's edge of the left descending bank beginning from mile marker 119.0 and ending at mile marker 119.8.

(b) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Pittsburgh or his designated representative.

(2) Persons or vessels desiring to transit the area of the security zone may contact the Captain of the Port Pittsburgh at telephone number 412–644–5808 or on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Pittsburgh or designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: November 18, 2002.

S.L. Hudson,

Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh.

[FR Doc. 02–31539 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA125–5058b; FRL–7421–9]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Repeal of Emission Standards for Perchloroethylene Dry Cleaning Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia (Virginia). This action proposes to approve Virginia's repeal of its emission standards for perchloroethylene dry cleaning systems. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by January 15, 2003.

ADDRESSES: Written comments should be addressed to Walter Wilkie, Acting Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Pauline De Vose, (215) 814–2186, at the EPA Region III address above, or by e-mail at *devose.pauline@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, Virginia's repeal of emission standards for perc dry cleaning systems, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comments on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: December 4, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 02–31469 Filed 12–13–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7412–7]

New Jersey: Proposed Authorization of State Hazardous Waste Program Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.* (''RCRA''), and the regulations thereunder, the State of New Jersey (the ''State'') applied for final authorization of changes to its hazardous waste program. These revisions were adopted by the State in January 1999. The Environmental Protection Agency, Region 2 (''EPA'') has reviewed the State's application and has determined that the State's revisions to its hazardous waste program satisfy all of the requirements necessary to qualify for final authorization. Accordingly, EPA proposes to grant final authorization to the State for these revisions, which are described in the ''Rules and Regulations'' section of today's **Federal Register**. In that section, EPA is authorizing the revisions by an immediate final rule. EPA did not publish a proposal prior to the immediate final rule because EPA believes that this action is not controversial and does not expect comments that oppose it. EPA has

explained the reasons for this authorization in the preamble to the immediate final rule. Unless EPA receives written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date set forth therein, and EPA will not take further action on this proposal. If EPA receives comments that oppose this action, EPA shall withdraw the portion of the immediate final rule that is the subject of the comments, and it will not take effect.

EPA shall then respond to those public comments opposing this authorization in a second final authorization notice. This second final notice may or may not include changes based on comments received during the comment period. Interested persons may not have another opportunity for comment. Therefore, if you want to comment on this proposal, you must do so at this time.

DATES: Comments on this action must be received by the close of business on January 15, 2003.

ADDRESSES: Written comments should be sent to Walter M. Mugdan, Director, Division of Environmental Planning and Protection, U.S. EPA, Region 2, 290 Broadway, New York, New York 10007–1866, (212) 637–3724. For further information contact Clifford Ng, Division of Environmental Planning and Protection, USEPA, Region 2, 290 Broadway (22nd Floor) New York, NY 10007–1866; telephone (212) 637-4113; E-mail—*ng.clifford@epamail.epa.gov.*

Copies of the State's application for authorization are available for inspection and copying as follows:

The New Jersey Department of Environmental Protection (''NJDEP'')

Address: Public Access Center, NJDEP, 401 East State Street, 1st Floor, Trenton, NJ 08625.

Hours: Monday through Friday (excluding holidays), 8:30 a.m.–1 pm., 2 p.m.–4:30 p.m.

Telephone: (609) 777–3373.

EPA

Address: EPA Library, 16th Floor, 290 Broadway, New York, NY 10007–1866.

Hours: Monday through Thursday (excluding holidays), 9 a.m.–4:30 p.m. Friday (excluding holidays), 9 a.m.–1 p.m.

Telephone: (212) 637–3185.

FOR FURTHER INFORMATION CONTACT: Clifford Ng, (212) 637–4113.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of today's **Federal Register**.

Dated: October 28, 2002.

William J. Muszynski,

Deputy Regional Administrator, Region II.

[FR Doc. 02–31014 Filed 12–13–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Bureau of Land Management

43 CFR Parts 4100 and 5000

RIN 1090–AA83

Special Rules Applicable to Public Land Hearings and Appeals; Grazing Administration—Exclusive of Alaska, Administrative Remedies; Grazing Administration—Effect of Wildfire Management Decisions; Administration of Forest Management Decisions

AGENCY: Office of Hearings and Appeals; Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Hearings and Appeals (OHA) is proposing to amend its existing regulations governing hearings and appeals to simplify proof of service, to codify who has a right of appeal, and to expedite its review of wildfire management decisions. The Bureau of Land Management (BLM) is adding regulations to make its wildfire management decisions effective immediately and to expedite review of those decisions. The amendments and additions to both OHA and BLM regulations are needed to clarify and expedite administrative review procedures.

DATES: You should submit your comments by February 14, 2003. The Department of the Interior will not necessarily consider comments postmarked or received by messenger after the above date.

ADDRESSES: Mail: Director, Office of Hearings and Appeals, Department of the Interior, 801 N. Quincy Street, Suite 300, Arlington, VA 22203, Attn: RIN 1090–AA83. Personal or messenger delivery: 801 N. Quincy Street, Suite 300, Arlington, VA 22203. Direct internet response: *http://www.blm.gov/nhp/news/regulatory/index.html.* Internet e-mail: *WOComment@blm.gov* (Include ''Attn: AA83'').

FOR FURTHER INFORMATION CONTACT: Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, U.S. Department of the Interior, 801 N. Quincy Street, Suite 300, Arlington, VA 22203, Phone: 703–235–3750, or Michael H. Schwartz, Group Manager, Regulatory Affairs, Bureau of Land Management, U.S. Department of the Interior, 1849 C Street, NW, Room 401 LS, Washington, DC 20240, Phone: 202–452–5198. Persons who use a telecommunications device for the deaf (TDD) may contact either individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

II. Background

III. Review Under Procedural Statutes and Executive Orders

I. Public Comment Procedures

A. How Do I Comment on the Proposed Rule?

If you wish to comment, you may submit your comments by any one of several methods.

- You may mail comments to Director, Office of Hearings and Appeals, Department of the Interior, 801 N. Quincy Street, Suite 300, Arlington, VA 22203, Attn: RIN 1090–AA83.
- You may deliver comments to 801 N. Quincy Street, Suite 300, Arlington, VA 22203.
- You may comment via the Internet by accessing our automated commenting system located at *www.blm.gov/nhp/news/regulatory/index.html* and following the instructions there.
- You may also comment via e-mail to *WOComment@blm.gov.* We intend this address for use by those who want to keep their electronic comments confidential and for those who are unable, for whatever reason, to use the Internet site. Please submit e-mail comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: AA83'' and your name and return address in your e-mail message.

If you do not receive a confirmation that we have received your electronic message, contact us directly at (202) 452–5030.

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing.

The Department of the Interior may not necessarily consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I Review Comments Submitted by Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under ''**ADDRESSES**: Personal or messenger delivery'' during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, either in a letter or e-mail, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment letter or e-mail. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

II. Background

The changes included in this proposal are important because BLM must provide a way to implement fire management decisions on both rangelands and forest lands with a minimum of delay. On August 22, 2002, President Bush released the Administration's Healthy Forests Initiative. The Initiative responds to the current threat of catastrophic wildfires posed by unnaturally dense and unhealthy forests and rangelands. One component of the Initiative directs Agriculture Secretary Ann Veneman, Interior Secretary Gale Norton, and Council on Environmental Quality Chairman James Connaughton to improve regulatory processes to ensure more timely decisions, greater efficiency, and better results in reducing the risk of catastrophic wildfires by restoring forest and rangeland health. The regulations proposed today are part of the Initiative.

The experience of recent fire seasons strongly suggests that the faster BLM is able to take action to reduce future threats of wildland fires, the more likely BLM can safeguard public and firefighter health and safety, protect property, and improve environmental baseline conditions in the wildland-urban interface and other priority areas. This recent experience shows that wildfire management decisions are by their nature urgent, both to speed recovery from past fires and thereby prevent erosion, water pollution, and other harmful legacies that they have caused, and to prevent or reduce catastrophic wildfires in upcoming dry seasons. Therefore, this rule proposes to make these decisions effective immediately.

A. Standing to Appeal

OHA proposes to codify its decisions on who has a right to appeal a decision. The regulation at 43 CFR 4.410 provides that ''[a]ny party to a case who is adversely affected by a decision of the Bureau of Land Management or of an administrative law judge shall have a right of appeal to the Board.'' Both ''party to a case'' and ''adversely affected'' have been discussed in several Board decisions, *e.g., San Juan Coal Co.,* 155 IBLA 389, 393 (2001); *Legal and Safety Employer Research, Inc.,* 154 IBLA 167, 171–72 (2001); and *Powder River Basin Resource Council,* 124 IBLA 83, 89 (1992). Those decisions define a ''party to a case'' as one who has taken the action that is the subject of the BLM decision on appeal, is the object of that decision, or has participated in the process leading to the decision, *e.g.,* by filing comments on an environmental analysis or filing a protest of the proposed decision. They define ''adversely affected'' as requiring a legally cognizable interest that would be harmed by the BLM decision. OHA proposes to add provisions to section 4.410 to reflect these decisions. A ''legally cognizable interest'' is a commonly used term in IBLA decisions. Whether one has such an interest depends on the facts of the particular case. In general, a property or economic interest in the land involved in BLM's decision would suffice, as would use of the land for earning a livelihood or for recreation. On the other hand, one's general concern about the subject matter of the decision or the interest of a person who uses the land in trespass, without claim or color of right, would not afford a right of appeal. The rule also proposes to provide, consistent with IBLA precedent, that a party may only raise issues on appeal that it raised with the agency whose decision it is appealing. See, for example, *Henry A. Alker*, 62 IBLA 211, 212 (1982); *Southern Utah Wilderness Alliance*, 128 IBLA 52, 59 (1993).

B. Effectiveness of BLM Wildfire Management Decisions

BLM is proposing to add section 4190.1 and amend section 5003.1. The former addition provides that fire management decisions affecting rangelands will become effective immediately. Current regulations are silent. The latter change provides that fire management decisions affecting forest management will become effective immediately. In both sections, we have included language stating that IBLA will promptly issue a decision on the merits of any appeal, since the BLM decision will not be subject to the automatic stay of 43 CFR 4.21(a). (Alternatively, because BLM wildfire management decisions would be in full force and effect, they would be final agency actions subject to immediate judicial review. 5 U.S.C. 704 (2000); *Darby* v. *Cisneros,* 113 S.Ct. 2539, 2547–48 (1993).) These changes would apply only to fire management decisions, not to other decisions relating to grazing or timber sales.

The proposed rule identifies the following as items that wildfire decisions are likely to include:

(1) fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods; and

(2) projects to stabilize and rehabilitate lands affected by wildfire.

We specifically request comment as to whether the list is appropriate, requires modification, or should be expanded.

These proposed regulations refer to a requirement that IBLA will issue a decision on the merits of an appeal of a wildfire management decision within the time limits specified in 43 CFR 4.416. That new regulation would require a decision within 60 days after all pleadings have been filed by the parties.

C. Proof of Service

In the Department's experience, the existing regulations requiring proof of service of documents filed with ALJs and IBLA are unnecessary. For appeals to IBLA, 43 CFR 4.413(a) requires that service of a notice of appeal and of written arguments must be made on adverse parties and the appropriate office of the Office of the Solicitor ''in the manner prescribed in § 4.401(c),'' that is, by delivering the copy personally or by sending the document by registered or certified mail, return receipt requested. 43 CFR 4.401(c)(1). Similar provisions apply to proceedings before ALJs, *e.g.,* 43 CFR 4.422(c)(1).

The regulations at 43 CFR 4.401(c)(2) and 4.422(c)(2) require that service be proved by a written statement of the person who made service (for personal delivery) or by a Postal Service return receipt (for service by mail). These regulations were adopted in 1971. In the meantime, many courts have adopted rules that provide that a ''certificate of service'' or ''affidavit of service'' may be substituted for proof of service of documents that must be served. For example, Rule 5.3 of the U.S. District Court for the District of Columbia provides: ''Proof of service * * * shall show the date and manner of service, and may be by certificate of an attorney of record or other proof satisfactory to the Court.'' There is no need to be more formal or burdensome in administrative proceedings. We therefore propose to amend sections 4.401(c)(2), 4.422(c)(2), and 4.450–5 to provide that a certificate of service is adequate proof of service.

III. Review Under Procedural Statutes and Executive Orders

A. *Regulatory Planning and Review (Executive Order 12866).* Under the criteria in Executive Order 12866, this document is not a significant rule. The Office of Management and Budget has not reviewed this rule under Executive Order 12866.

1. This rule will not have an annual economic effect of $100 million or more or adversely affect in a material way an economic sector, productivity, competition, jobs, the environment, public health or safety, or other units of government or communities. A cost-benefit and economic analysis is not required. These amended regulations will have virtually no effect on the economy because they merely simplify proof of service, codify who has a right of appeal, make BLM wildfire management decisions effective immediately, and expedite review of those decisions.

2. This rule will not create inconsistencies with or interfere with other agencies' actions. This rule amends existing regulations of the Office of Hearings and Appeals and the Bureau of Land Management so that they will continue to be consistent with each other.

3. This rule will not alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. These proposed regulations have to do only with the procedures for hearings and appeals of BLM land management decisions, not with entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. These proposed regulations merely simplify proof of service, codify who has a right of appeal, make BLM wildfire management decisions effective immediately, and expedite review of those decisions.

4. This rule does not raise novel legal or policy issues. These proposed regulations merely simplify proof of service, codify who has a right of appeal, make BLM wildfire management decisions effective immediately, and expedite review of those decisions.

B. *Regulatory Flexibility Act.* The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Simplifying proof of service, codifying who has a right of appeal, making BLM wildfire management decisions effective immediately, and expediting review of those decisions will have no appreciable effect on small entities. A Small Entity Compliance Guide is not required.

C. *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.

1. This rule would not have an annual effect on the economy of $100 million or more. Simplifying proof of service, codifying who has a right of appeal, making BLM wildfire management decisions effective immediately, and expediting review of those decisions should have no effect on the economy.

2. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies, or geographic regions. Simplifying proof of service, codifying who has a right of appeal, making BLM wildfire management decisions effective immediately, and expediting review of those decisions will not affect costs or prices for citizens, individual industries, government agencies, or geographic regions.

3. This rule would 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. Simplifying proof of service, codifying who has a right of appeal, making BLM wildfire management decisions effective immediately, and expediting review of those decisions will have no effects, adverse or beneficial, on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. *Unfunded Mandates Reform Act.* In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*):

1. This rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. Small government entities rarely appeal BLM wildfire management decisions. Simplifying proof of service, codifying who has a right of appeal, making BLM wildfire management decisions effective immediately, and expediting review of those decisions will neither uniquely nor significantly affect these governments. A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.* is not required.

2. This rule would not produce an unfunded Federal mandate of $100 million or more on State, local, or tribal governments or the private sector in any year, i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

E. *Takings (Executive Order 12630).* In accordance with Executive Order 12630, the rule would not have significant takings implications. A takings implication assessment is not required. These amendments to existing regulations that will simplify proof of service, codify who has a right of appeal, make BLM wildfire management decisions effective immediately, and expedite review of those decisions will have no effect on property rights.

F. *Federalism (Executive Order 13132).* In accordance with Executive Order 13132, these proposed regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. There is no foreseeable effect on states from simplifying proof of service, codifying who has a right of appeal, making BLM wildfire management decisions effective immediately, and expediting review of those decisions. A Federalism Assessment is not required.

G. *Civil Justice Reform (Executive Order 12988).* In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. This rule, because it merely simplifies proof of service, codifies who has a right of appeal, makes BLM wildfire management decisions effective immediately, and expedites review of those decisions will not burden either administrative or judicial tribunals.

H. *Paperwork Reduction Act.* These regulations do not require an information collection from 10 or more parties, and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I has not been prepared and has not been approved by the Office of Policy Analysis. These proposed regulations simplify proof of service, codify who has a right of appeal, make BLM wildfire management decisions effective immediately, and expedite review of those decisions. They do not require the public to provide information.

I. *National Environmental Policy Act.* The Department has analyzed this rule in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, Council on Environmental Quality (CEQ) regulations, 40 CFR Part 1500, and the Department Manual (DM). CEQ regulations, at 40 CFR 1508.4, define a ''categorical exclusion'' as a category of actions that the Department has determined ordinarily do not individually or cumulatively have a significant effect on the human environment. The regulations further direct each department to adopt NEPA procedures, including categorical exclusions. 40 CFR 1507.3. The Department has determined that the proposed rule is categorically excluded from further environmental analysis under NEPA in accordance with 516 DM 2, Appendix 1, which categorically excludes: ''[p]olicies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature.'' In addition, the Department has determined that none of the exceptions to categorical exclusions, listed in 516 DM 2, Appendix 2, applies to the proposed rule. The proposed rule is an administrative and procedural rule, relating to the timing of the effectiveness of BLM wildfire management decisions and the Department's administrative appeals process. The rule would not change the requirement that projects must comply with NEPA. Therefore, an environmental assessment or environmental impact statement under NEPA is not required.

J. *Executive Order 13175, Consultation and Coordination with Indian Tribal Governments.* As required by Executive Order 13175 and 512 DM 2, the Department of the Interior has evaluated potential effects of the proposed rule on Federally recognized Indian tribes and has determined that there are no potential effects. The proposed rule would not affect Indian trust resources; it simplifies proof of service, codifies who has a right of appeal, makes BLM wildfire management decisions effective immediately, and expedites review of those decisions.

K. *Effects on the Nation's Energy Supply (Executive Order 13211).* In accordance with Executive Order 13211, this proposed rule would not have a significant effect on the nation's energy supply, distribution, or use. Simplifying proof of service, codifying who has a right of appeal, making BLM wildfire management decisions effective immediately, and expediting review of those decisions will not affect energy supply or consumption.

L. *Clarity of this Regulation.* Executive Order 12866 requires each agency to write regulations that are easy to understand, including answers to 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 renumbered heading; for example, § 4.21 General provisions.) (5) Is the description of the rule in the SUPPLEMENTARY INFORMATION section of the preamble helpful in understanding the proposed rule? (6) What else could we do to make the rule easier to understand? Please send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov*.

M. *Author.* The principal author of this proposed rule is Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, assisted by Michael Hickey and Amy Sosin, Office of the Solicitor, and Michael H. Schwartz, Bureau of Land Management, Department of the Interior.

List of Subjects

43 CFR Part 4

Administrative practice and procedure, Grazing lands, Public lands.

43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management, Reporting and recordkeeping requirements.

43 CFR Part 5000

Administrative practice and procedure, Forests and forest products, Public lands.

For the reasons set forth in the preamble, part 4, subpart E, and subpart 5003 of Title 43 of the Code of Federal Regulations are proposed to be amended, and subpart 4190 of Title 43 of the Code of Federal Regulations is proposed to be added, as set forth below:

Dated: December 10, 2002.

Robert S. More,

Director, Office of Hearings and Appeals.

Dated: December 10, 2002.

Rebecca W. Watson,

Assistant Secretary of the Interior.

43 CFR Subtitle A—Office of the Secretary of the Interior

PART 4—[AMENDED]

Subpart E—Special Rules Applicable to Public Land Hearings and Appeals

1. The authority for 43 CFR Part 4, Subpart E, continues to read:

Authority: Sections 4.470 to 4.478 also issued under authority of sec. 2, 48 Stat. 1270; 43 U.S.C. 315a.

2. In § 4.401, revise paragraph (c)(2) to read as follows:

§ 4.401 Documents.

* * * * *

(c) * * *

(2) A party or its representative must sign a written statement at the conclusion of any document that a party must serve under the regulations in this part certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service.

* * * * *

3. In § 4.410, redesignate paragraph (b) as (e) and add paragraphs (b), (c), and (d) to read as follows:

§ 4.410 Who may appeal.

* * * * *

(b) A party to a case, as set forth in paragraph (a) of this section, is one who has taken action that is the subject of the decision on appeal, is the object of that decision, or has otherwise participated in the process leading to the decision under appeal, *e.g.,* by filing a mining claim or application for use of public lands, by commenting on an environmental document, or by filing a protest to a proposed action.

(c) To the extent applicable, a party to a case, as set forth in paragraph (a) of this section, may raise on appeal only those issues raised in its prior participation.

(d) A party to a case is adversely affected, as set forth in paragraph (a) of this section, when that party has a legally cognizable interest, and the decision on appeal has caused, or will cause, injury to that interest.

* * * * *

4. Section 4.416 is added to read as follows:

§ 4.416 Appeals of wildfire management decisions.

The Interior Board of Land Appeals must decide appeals from BLM decisions under § 4190.1 and § 5003.1(b) of this title within 60 days after all pleadings have been filed.

5. In § 4.422, revise paragraph (c)(2) to read as follows:

§ 4.422 Documents.

* * * * *

(c) * * *

(2) A party or its representative must sign a written statement at the conclusion of any document that the party must serve under the regulations in this part certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service.

* * * * *

6. In § 4.450–5, revise the introductory paragraph to read as follows:

§ 4.450–5 Service.

The complaint must be served upon every contestee in the manner provided in § 4.422(c)(1). Proof of service must be made in the manner provided in § 4.422(c)(2). In certain circumstances, service may be made by publication as provided in paragraph (b)(1) of this section. When the contest is against the heirs of a deceased entryman, the notice must be served on each heir. If the person to be personally served is an infant or a person who has been legally adjudged of unsound mind, service of notice must be made by delivering a copy of the notice to the legal guardian or committee, if there is one, of such infant or person of unsound mind. If there is no guardian or committee, then service must be by delivering a copy of the notice to the person having the infant or person of unsound mind in charge.

* * * * *

43 CFR Chapter II—Bureau of Land Management, Department of the Interior

PART 4100—GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

7. The authority citation for part 4100 continues to read:

Authority: 43 U.S.C. 315, 315a-315r, 1181d, 1740.

8. Add subpart 4190, consisting of §4190.1, to read as follows:

Subpart 4190—Effect of wildfire management decisions

§ 4190.1 Effect of wildfire management decisions.

(a) Notwithstanding the provisions of 43 CFR 4.21, BLM rangeland wildfire management decisions are in immediate full force and effect. Wildfire management includes but is not limited to:

(1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods; and

(2) Projects to stabilize and rehabilitate lands affected by wildfire.

(b) The Interior Board of Land Appeals will issue a decision on the merits of an appeal of a wildfire management decision under paragraph (a) of this section within the time limits prescribed in 43 CFR 4.416.

PART 5000—ADMINISTRATION OF FOREST MANAGEMENT DECISIONS

9. The authority citation for part 5000 continues to read as follows:

Authority: 43 U.S.C. 1181(a); 43 U.S.C. 1701; 30 U.S.C. 601 *et seq;*

Subpart 5003–Administrative Remedies

10. Revise § 5003.1 to read as follows:

§ 5003.1 Effect of decisions.

(a) Filing a notice of appeal under part 4 of this title does not automatically suspend the effect of a decision governing or relating to forest management as described under §§ 5003.2 and 5003.3.

(b) Notwithstanding the provisions of 43 CFR 4.21, BLM wildfire management decisions made under this part and parts 5400 through 5510 of this chapter are in immediate full force and effect. Wildfire management includes but is not limited to:

(1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods; and

(2) Projects to stabilize and rehabilitate lands affected by wildfire.

(c) The Interior Board of Land Appeals will issue a decision on the merits of an appeal of a wildfire management decision under paragraph (b) of this section within the time limits prescribed in 43 CFR 4.416.

[FR Doc. 02–31575 Filed 12–11–02; 3:00 pm]

BILLING CODE 4310–79–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration (NHTSA)

49 CFR Part 533

[Docket No. 2002–11419; Notice 2]

RIN 2127–AI70

Light Truck Average Fuel Economy Standards Model Years 2005–07

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes the establishment of corporate average fuel economy standards for light trucks, pursuant to 49 U.S.C. chapter 329, manufactured in model years (MY) 2005 through 2007. The agency is proposing to set the standard for light trucks at 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007.

DATES: Comments must be received on or before February 14, 2003.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ‘‘Help & Information’’ or ‘‘Help/Info’’ to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For technical issues, call Ken Katz, Lead Engineer, Fuel Economy Division, Office of Planning and Consumer Standards, at (202) 366–0846, facsimile (202) 493–2290, electronic mail *kkatz@nhtsa.dot.gov.*

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I. Background

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, Congress enacted the Energy Policy and Conservation Act (EPCA). The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. Title V has been amended from time to time and codified without substantive change as Chapter 329 of title 49, United States Code. Chapter 329 provides for the issuance of average fuel economy standards for passenger automobiles and automobiles that are not passenger automobiles (light trucks).

Section 32902(a) of chapter 329 states that the Secretary of Transportation shall prescribe by regulation corporate average fuel economy (CAFE) standards for light trucks for each model year. That section also states that ''[e]ach standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' The Secretary has delegated the authority to implement the automotive fuel economy program to the NHTSA Administrator. 49 CFR 1.50(f).

The first light truck fuel economy standards were established for MY 1979 and applied to light trucks with Gross Vehicle Weight Ratings (GVWR) up to 6000 pounds. Beginning with MY 1980, NHTSA raised this GVWR ceiling to 8500 pounds. For MYs 1979–1981, NHTSA established separate standards for two-wheel drive (2WD) and four-wheel drive (4WD) light trucks, without a ''combined'' standard blending the two together. Beginning with MY 1982, NHTSA established a combined standard, plus optional 2WD and 4WD standards. After MY 1991, NHTSA dropped the optional 2WD and 4WD standards. During MYs 1980–1995, NHTSA also required U.S. light truck manufacturers' ''captive imports'' to be separated from their other truck models in determining compliance with CAFE standards. The following table lists the ''combined'' standards established since MY 1982:

Model year	CAFE standard (mpg)
MY 1982	17.5
MY 1983	19.0
MY 1984	20.0
MY 1985	19.5
MY 1986	20.0
MY 1987	20.5
MY 1988	20.5
MY 1989	20.5
MY 1990	20.0
MY 1991	20.2
MY 1992	20.2
MY 1993	20.4
MY 1994	20.5
MY 1995	20.6
MY 1996–2004	20.7

In 1994, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** outlining NHTSA's intention to set standards for some, or all, of the model years from 1998 to 2006. 59 FR 16324 (April 6, 1994).

On November 15, 1995, the Department of Transportation and Related Agencies Appropriations Act for FY 1996 was enacted. Pub. L. 104–50. *Section 330 of that Act provided:*

> None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations * * * prescribing corporate average fuel economy standards for automobiles * * * in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

We then issued a notice of proposed rulemaking (NPRM) limited to MY 1998, proposing to set the light truck CAFE standard for that year at 20.7 mpg, the same standard as had been set for MY 1997. 61 FR 145 (January 3, 1996). This 20.7 mpg-standard was adopted by a final rule issued on March 29, 1996. 61 FR 14680 (April 3, 1996).

On September 30, 1996, the Department of Transportation and Related Agencies Appropriations Act for FY 1997 was enacted. Public. Law. 104–205. Section 323 of that Act included the same language on CAFE standards as that of Section 330 of the FY 1996 Appropriations Act. The agency followed the same process as the prior year and established a MY 1999 light truck CAFE standard of 20.7 mpg, the same standard that had been set for MYs 1997 and 1998.

Because the same limitation on the setting for CAFE standards was included in the Appropriations Acts for each of FYs 1998–2001, the agency followed that same procedure during those fiscal years and did not issue any NPRMs in the series of rulemakings we conducted to establish the light truck fuel economy standards for MYs 2000–2003. The agency concluded in those rulemakings, as it had when setting the MY 1999 standard, that the restrictions contained in the Appropriations acts prevented the issuance of any standards other than the standard set for the prior model year. The agency also determined that issuing an NPRM was unnecessary and contrary to the public interest because there was no other course of action available to it.

The Department of Transportation and Related Agencies Appropriations Act for FY 2001 was enacted on October 23, 2000. Public Law 106–346. This law provided appropriations for the Department of Transportation for FY 2001, and is the law under which we issued the light truck CAFE standard for MY 2003. While Section 320 of that Act contained a restriction on CAFE rulemaking identical to that contained in prior appropriation acts, the conference committee report for that act directed that NHTSA fund a study by National Academy of Sciences (NAS) to evaluate the effectiveness and impacts of CAFE standards (H.R. Conf. Rep. No. 106–940, at 117–118).

The NAS submitted its report to the Department of Transportation on July 30, 2001. The final report was released in January 2002. The report concludes that technologies exist that could significantly increase passenger car and light truck fuel economy within 15 years. However, their development cycles—as well as future economic, regulatory, safety and consumer preferences—will influence the extent to which these technologies appear in the U.S. market.

All but two members of the NAS committee noted: ''the downweighting and downsizing that occurred in the late 1970s and early 1980s, some of which was due to CAFE standards, probably resulted in an additional 1300 to 2600 traffic fatalities in 1993.'' (NAS, pp. 3 and 111.) Specifically, ''to the extent that the size and weight of the fleet have been constrained by CAFE requirements * * * those requirements have caused more injuries and fatalities on the road than would otherwise have occurred.'' (NAS, p. 29).

The NAS found that to minimize financial impacts on manufacturers, their suppliers, their employees and consumers, sufficient lead-time (consistent with normal product life cycles) should be given when considering increases in CAFE standards. The report stated that there are advanced technologies that could be employed, without negatively affecting the automobile industry, if sufficient lead-time were provided to the manufacturers. In the NAS' view, the selection of future fuel economy standards will require uncertain and difficult trade-offs among environmental benefits, vehicle safety, cost, energy independence, and consumer preferences. It also suggests that changing the CAFE regulatory program to one based on vehicle attributes, such as weight, and allowing "credit trading" could eliminate the current CAFE program's encouragement of downweighting or the production and sale of more small cars, and also would reduce costs. (NAS, pp. 5, 113) Recognizing the many trade-offs that must be considered in setting fuel economy standards, the committee took no position on what the appropriate CAFE standards should be for future years. In February 2002, Secretary Mineta asked Congress "to provide the Department of Transportation with the necessary authority to reform the CAFE program, guided by the NAS report's suggestions."

In a letter dated July 10, 2001, Secretary of Transportation Mineta asked the House and Senate Appropriations Committees to lift the restriction on the agency spending funds for the purposes of improving CAFE standards. The Department of Transportation and Related Agencies Appropriations Act for FY 2002 (Pub. L. 107–87) was enacted on December 18, 2001, and does not contain a provision restricting the Secretary's authority to prescribe fuel economy standards.

To prepare any fuel economy standard, the agency must collect information relating to prospective CAFE levels, analyze and weigh the information in light of the statutory criteria for determining the "maximum feasible" average fuel economy level, and incorporate this information and analysis into a rulemaking action to set the standard, with opportunity for notice and comment. As NHTSA was unable to spend any funds by virtue of Section 320 of the FY 2001 Appropriations Act and the predecessor restrictions in earlier Appropriations Acts, it was not able to prepare the factual or analytical foundation necessary for rulemaking to establish new CAFE levels from September 1995 to December 2001.

When issuing our January 2002 proposal to establish the MY 2004 standard at 20.7 mpg (67 FR 3470), we noted that the availability of funds did not translate into an immediate ability to conduct the level of analysis needed to set fuel economy standards. Although a number of commenters reacted to this proposal by advocating a higher MY 2004 standard, the agency determined, on the basis of the limited information available and the proximity to the model year, to set the MY 2004 Standard at 20.7 mpg (67 FR 16052, April 4, 2002).

On February 7, 2002, we issued a Request for Comments (67 FR 5767) seeking data on which we could base our analysis of appropriate CAFE standards for light trucks for upcoming model years. We also sought comments on possible reforms to the CAFE program, as it applies to both passenger cars and light trucks, to protect passenger safety, advance fuel-efficient technologies, and obtain the benefits of market-based approaches.

II. Agency Proposal

This notice proposes to establish an average fuel economy standard for light trucks for each of MYs 2005–07. The agency is proposing to set the corporate average fuel economy standard for light trucks at 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007.

After receiving comments and reviewing any additionally provided data, we may decide to set the standards at different levels than those proposed. Factual uncertainties that could result in lower standards include the possibility that planned technological actions may not achieve anticipated fuel economy benefits or may prove to be infeasible. Similarly, factual uncertainties that could result in higher standards include the possibility that manufacturers may be able to improve fuel economy in their fleets by further technological advances beyond those currently planned.

We believe that the advent of advanced vehicle technologies, such as hybrid propulsion systems and advanced diesel engines, will allow for the development of advanced fuel economy should they permeate the motor vehicle market. Fuel cell technology has the capacity over the long term to reframe the basic transportation system. While we are limited today in setting fuel economy standards for the relative short term and within the constraints of the current CAFE statute, we will continue to support and encourage the development of advanced vehicle technologies capable of substantial fuel economy improvements and a market structure to support them through efforts like FreedomCAR, continued targeted research dollars and consumer tax incentives. Consistent with the recommendations of the NAS report, we intend to study programmatic CAFE alternatives and to implement those reforms consistent with our statutory authority to allow for greater improvements in fuel economy safely in the years beyond those addressed in this proposal.

The proposal is a significant step toward accomplishing the target in the conference energy bill to save at least 5 billion gallons of gasoline from MYs 2006 through MY 2012. The proposed increases for MYs 2006–2007 alone will generate more than 3 billion gallons of gasoline savings compared to what would be used by those vehicles if they only achieved the current fuel economy standard of 20.7 mpg. Even if the standard remained at 22.2 mpg for MYs 2008 through 2012, approximately 8 billion gallons of gasoline would be saved during MYs 2006 through 2012.

III. Manufacturer Projections for Model Years 2005–2007

In evaluating manufacturers' fuel economy capabilities for MY 2005-07, we have analyzed manufacturers' current projections and underlying product plans and considered what, if any, additional actions the manufacturers could take to improve their fuel economy. We note that although manufacturers may receive credit towards their CAFE compliance by placing alternative fuel vehicles into the market, the statute prohibits us from taking such benefits into consideration in determining the maximum feasible fuel economy standard.

A. General Motors

General Motors' (GM) current share of the light truck market is 25.5%. In its May 2002 submission, General Motors projected that its light truck fleet would achieve a CAFE level of between 18.7 and 20.0 mpg for 2005 MY, between 18.8 and 20.1 mpg for MY 2006 and between 19.1 and 20.8 mpg for MY 2007. Its projections include sales of GMC, Chevrolet, Pontiac, Buick, Cadillac and Saturn vehicles.

B. Ford

Ford Motor Company controls approximately 27.5% of the light truck market in the United States. In its May 2002 submission, Ford provided data from which the agency projects its light truck fleet would achieve a CAFE level of 20.9 mpg for MY 2005, 21.6 for MY 2006 mpg and 22.0 mpg for MY 2007. Its data include sales of Ford branded vehicles, as well as Lincoln, Mercury, Mazda, Land Rover and Volvo branded vehicles. Ford indicated that its estimates of fuel economy improvements are typically 40 to 60 percent higher than the corresponding improvements of actual production vehicles, thus it is possible that Ford's current product plan for MY 2005–2007 could result in a CAFE level for its light truck fleet of up to 0.5 mpg less per model year.

C. DaimlerChrysler

DaimlerChrysler controls approximately 24.6 percent of the light truck market. In its May 2002 submission, DaimlerChrysler provided data from which the agency projects that its light truck fleet would achieve a CAFE level of 21.3 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007. Its data includes sales of Chrysler, Jeep, Dodge, Mercedes and Mitsubishi brand vehicles. DaimlerChrysler indicated that its fuel economy estimates include risks that their CAFE projections won't be met due to technology issues, product offerings, consumer acceptance, future safety regulations and the economic climate. These risks could cause the CAFE level for DaimlerChrysler light truck fleet to be approximately 0.4 to 0.7 mpg less per model year.

In response to the agency's Request for Comments, DaimlerChrysler, Ford and General Motors clarified their public commitments relating to fuel economy improvements in their vehicles. Ford clarified its July 27, 2000, announcement that it planned to increase the fuel economy of its sport utility vehicle fleet by 25 percent by the 2005 calendar year. Ford stated that its plan calls for a significant fuel economy improvement in its existing fleet combined with the introduction of new SUVs with higher fuel economy capabilities. Ford also clarified that its commitment uses MY 2000 as the base year and that the increase will become effective with the introduction of the MY 2006 vehicles during the latter half of 2005.

General Motors stated that its public announcement did not refer to its average fuel economy levels, but rather to its leadership in light truck fuel economy and its intent to remain the leader over the next five years. GM also made clear that its leadership relates to the manufacture and sale of more fuel-efficient light trucks as measured through model-to-model comparisons of comparable vehicles.

DaimlerChrysler stated that it is committed to improving the fuel efficiency of all of its vehicles and that its fleet will match or exceed those of other full-line manufacturers.

D. Other Manufacturers

Honda, Toyota and Nissan each provided responses to all or many of the questions posed in the Request for Comments. All three of these manufacturers provided information regarding a variety of technologies for improving fuel efficiency that they plan on incorporating into their light trucks by the 2005 model year. For the technologies discussed, they provided the estimated fuel economy benefit, when the technology would be available for use, its potential applications, where it is currently being employed on their light trucks, and the estimated costs associated with employing the technology. None, however, provided detailed projections regarding their MY 2005–2010 product plans or information regarding vehicle specifications or estimated fuel economy values for those model years.

A number of foreign-based manufacturers participating in the U.S. market did not submit any response to our Request for Comments. Of these companies, which include BMW, Isuzu, Volkswagen, Hyundai, Kia, Suzuki, and others, only Isuzu sold more than 100,000 light trucks in the 2001 model year. The projected MY 2001 CAFE values and production for all light truck manufacturers other than GM, Ford and DaimlerChrysler are shown in following table:

Manufacturer	MY 2001 CAFE, mpg	MY 2001 production, units	MY 2001 market share, percentage
Toyota	22.1	647,416	8.9
Nissan	20.7	377,338	5.2
Honda	24.9	252,430	3.5
Isuzu	21.1	131,400	1.82
Kia	22.9	58,000	0.80
BMW	19.2	52,957	0.73
Hyundai	25.2	47,000	0.652
Suzuki	22.0	45,958	0.63
Volkswagen	20.5	10,183	0.14

IV. Maximum Feasible Average Fuel Economy Considerations

The CAFE statute sets forth the parameters within which the agency is required to establish corporate average fuel economy standards. Section 32902(a) directs the Secretary of Transportation (who has delegated this authority to the NHTSA Administrator) to prescribe by regulation average fuel economy standards for light trucks at least 18 months before the beginning of each model year, and provides that "each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year." The agency is required to consider the factors in 49 U.S.C. 32902(f) when determining the "maximum feasible" average fuel economy standards for any given model year. Although the EPCA does not include motor vehicle safety as an express statutory criterion, NHTSA may consider safety in accordance with the Administration's emphasis on safety in setting CAFE standards. Motor vehicle safety has long been recognized as an integral part of the agency's consideration of economic practicability, and this rulemaking includes consideration of the safety implications of the proposed new standards for light trucks.

As discussed in many past fuel economy notices, it is clear from the legislative history that Congress intended NHTSA to take industry-wide considerations into account in determining the maximum feasible average fuel economy levels, and not to limit its analysis to any particular company's ability to meet the standard. Consistent with the mandate that the agency consider economic practicability, the agency has determined maximum feasible CAFE standards with regard to the projected capabilities of those manufacturers whose vehicles constitute a substantial share of the market.

This does not necessarily mean that CAFE standards will be set at the level asserted by the ''least capable manufacturer'' with a substantial share of the market (Ford, GM and DaimlerChrysler). Instead, it means that we must consider the statutory factors with regard to these manufacturers, weighing their asserted capabilities, product plans and economic conditions against their projected capabilities, the need for the nation to conserve energy and the effect of other regulations (including motor vehicle safety and emissions regulations) and other public policy objectives.

This approach is consistent with the Conference Report on the legislation enacting the CAFE statute:

> Such determination [of maximum feasible average fuel economy level] should take industry-wide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer that might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic manufacturers that currently exist and the possible implications for the national economy and for reduced competition association [sic] with a severe strain on any manufacturer. * * *

S. Rep. No. 94–516, 94th Congress, 1st Sess. 154–155 (1975).

The agency has historically included consideration of numerous public policy concerns, whether considered as part of the enumerated factors or in addition to them. For example, the agency always has considered the impact of the average fuel economy standard on motor vehicle and passenger safety. As the United States Court of Appeals pointed out in upholding NHTSA's exercise of judgment in setting the 1987–1989 passenger car standards, ''NHTSA has always examined the safety consequences of the CAFE standards in its overall consideration of relevant factors since its earliest rulemaking under the CAFE program.'' *See, Competitive Enterprise Institute* v. *NHTSA (CEI I),* 901 F.2d 107, 121 at n.11 (DC Cir. 1990).

The courts have routinely affirmed the agency's authority to balance all of these considerations in applying the statutory factors and have consistently upheld NHTSA's conclusions. *See, e.g., Center for Auto Safety* v. *NHTSA,* 793 F.2d 1322 (*CAS II*)(D.C. Cir. 1986) (administrator's consideration of market demand as component of economic practicability found to be reasonable); *Public Citizen* v. *NHTSA,* 848 F.2d 256 (D.C. Cir.1988)(Congress established broad guidelines in the fuel economy statutes; agency's decision to set lower standard a reasonable accommodation of conflicting policies); *CEI I*, 901 F.2d 107 (D.C. Cir.1990)(agency setting of fuel economy standards and considerations of safety impacts upheld).

We have tentatively concluded that this proposal is within the technological feasibility and economic practicability of the primary contributors to the light truck market, is capable of being met without substantial product restrictions, vehicle weight reduction or adverse effects on air quality, and will enhance the ability of the nation to conserve fuel consumption and reduce its dependence on foreign oil.

We anticipate that hybrid vehicles and advanced diesel engines will begin to permeate the motor vehicle market and enhance the overall fuel efficiency of the vehicle fleet. We seek comments on the availability of advanced technology vehicles both during the 2005–2007 MY time frame and beyond, and on CAFE-related mechanisms, available under current statutory authority or through reformed CAFE standards that may require new statutory authority, through which the government can encourage and augment the incorporation of these vehicles into the fleet.

V. Technological Feasibility

Using the data submitted in response to our Request for Comments, we believe that some manufacturers may be able to achieve CAFE performance better than they currently project. The agency's analysis of CAFE capability involves technological improvement and the potential to limit growth in horsepower/weight ratios.[1] Although the agency's analysis includes the possibility that manufacturers may limit growth in horsepower/weight ratios, we believe that manufacturers will meet the proposed CAFE levels without any meaningful deviation from the planned performance and weight of their vehicles. Additionally, we do not expect any manufacturers to engage in any meaningful type of mix shifting to meet these standards, other than those already being planned. The agency's analysis assumes manufacturers will not reduce vehicle weight in order to comply with the proposed new standard. Under this approach, our CAFE standards will not adversely affect motor vehicle safety. However, we invite comments on this approach. Commenters are asked to provide data and analysis on the possibility or likelihood that manufacturers will comply with these new standards by reducing vehicle weight and, if so, the safety consequence of weight reduction.

The Preliminary Economic Assessment (PEA) discusses in detail fuel efficiency enhancing technologies expected to be available during the MY 2005–2007 time period. Some of the technologies discussed in the PEA have been used for over a decade (*e.g.*, overhead camshafts, engine friction reduction, and low friction lubricants). Some have only recently been incorporated into passenger cars, (*e.g.*, 5-speed and 6-speed automatic transmissions and variable valve timing). Some have been under development for a number of years but have not been produced in quantity for an extended period (*e.g.*, cylinder deactivation, variable valve lift and timing, continuously variable transmission (CVT), integrated starter/generator, advanced diesels and hybrid drive-trains).

The agency has analyzed potential technological improvements to the product offerings for each manufacturer with a significant share of the light truck market. As indicated above, Ford, General Motors and DaimlerChrysler are the dominant manufacturers in the light truck segment. In comparison, Toyota, Honda or Nissan do not manufacture a substantial share of the light trucks sold in the U.S. We also note that unlike the domestic manufacturers, none of the foreign manufacturers of trucks provided detailed responses to our prior request for comments.

Because Ford, General Motors and DaimlerChrysler each have a substantial share of the light truck market, we focused our analysis on their capabilities. Historically, the agency has premised its analysis of economic practicability on what level each manufacturer with a substantial share of the market could achieve without needing to engage in product restriction (with a potentially adverse effect on jobs and consumer choice) or weight

[1] This analysis is based on the information provided in response to our Request for Comments. A more detailed discussion of these issues is contained in the agency's Preliminary Economic Assessment (PEA), which has been placed in the docket for this notice. Some of the information included in the PEA, including the details of manufacturers' future product plans, has been determined by the Agency to be confidential business information the release of which could cause competitive harm. The public version of the PEA omits the confidential information.

reductions (with a potentially adverse effect on safety). The limit of economic practicability has been considered to be that of the least capable manufacturer with a substantial share of the relevant market because the CAFE program seeks to find the maximum level of fuel economy achievable without impeding American jobs or motor vehicle safety.

To define the maximum CAFE level that will not lead to adverse consequences, we reviewed in detail the confidential product plans provided by the major contributors to the market and assessed their technological capabilities. By doing so, we are able tentatively to determine the extent to which each can enhance their fuel economy performance using available technology.

In examining the potential for improvements in light truck fuel economy, we considered potential technological improvements using a three-stage analysis in which different improvements in efficiency are applied to the light truck fleet at different times. Technologies that were reported by a particular manufacturer to be available for use in MY 2005 or earlier—but were not necessarily being applied by that manufacturer—are regarded in NHTSA's analysis as ''Stage 1'' technologies. Other technologies, including potential transmission and engine improvements, that some manufacturers indicated were part of planned production programs were designated as ''Stage 2'' improvements. Finally, improvements in efficiency garnered by replacing planned sales of vehicles equipped with 6.0L or larger engines to almost identical models equipped with 5.3L or larger engines was designated as ''Stage 3.'' To repeat, none of the efficiency improvements envisioned in our analysis involved significant changes in vehicle mass or size.

Our analysis does not incorporate a rigid methodology to achieve the proposed levels of fuel economy. For instance, we estimate that replacing an overhead valve engine with a multi-valve overhead camshaft engine of the same displacement and replacing a 4-speed automatic transmission with a 5- or 6-speed automatic transmission offer about the same potential level of improvement. One of them may be more attractive to a particular manufacturer because of its cost, ease of manufacturing, or the model lines to which it would apply. Nor does this analysis include the many minor types of improvements in electronic controls and engine valving that could provide further fuel economy gains. These are omitted because it is difficult to definitively determine which of these technologies will be included in the models that manufacturers plan to produce in MY 2005–2007.

A. General Motors

In its submission, General Motors described a variety of technologies that could be used to improve fuel economy. For each such technology, GM included its estimated fuel economy benefit, the basis for that estimate, whether the benefit was direct or interactive, a description of how the technology works and how it increases fuel economy, when the technology would be available for use, its potential applications, where it is currently employed in GM's light truck fleets, where the technology could potentially be used, risks in employing the technology, and potential impacts on noise, vibration and harshness (NVH), safety, emissions, cargo and towing capacity.

The agency relied on these descriptions in determining which Stage 1 technologies GM could employ in MYs 2005–2007 to enhance its fuel economy performance. Our analysis indicates that GM could employ five technologies by MY 2005 in certain parts of its light truck fleet with an additional three technologies employed in certain parts of its light truck fleet by MY 2006. The five technologies would carry over to MY 2006–2007, while the additional three technologies would carry over to MY 2007. All of these technologies would, in NHTSA's view, continue to be used in future model years. We also used the numbers provided by GM for percentage increase in fuel economy in calculating the possible fuel economy increase attributable to each of these technologies.

To determine which Stage 2 technologies GM could employ, on which vehicles and/or engines they could be employed, and when they could be employed, NHTSA relied on its own engineering judgment and the submissions from other manufacturers. In looking at these submissions, together with what GM provided, NHTSA has analyzed which Stage 2 technologies could be applied to GM's light truck fleet for MYs 2005–2007. Our analysis indicates that GM could employ two technologies by model year 2005, and an additional technology by model year 2006. One of the technologies introduced in MY 2005 would only carry over into MY 2006, because the vehicles that could use this technology are being redesigned in MY 2007, and indications are that this specific technology application is included in the vehicle redesign. The other technologies would carry over in MY 2007 and would continue to be employed in future model years. To determine the possible fuel economy increase attributable to each of these technologies, NHTSA examined manufacturer-provided estimates for the percentage increases in fuel economy for each technology. If a manufacturer had already introduced a specific technology or was introducing it by MY 2005, we placed more credence on that value, especially if it was in the NAS range and if at least one other manufacturer estimated a similar value for the fuel economy potential of that technology.

The Stage 3 analysis includes projections of the potential CAFE increase that could result from moving the sales of vehicles equipped with 6.0L or larger engines to almost identical models equipped with 5.3L or larger engines. The agency reviewed GM's publicly available data and believes, based on that review, that the bulk of GM models equipped with the 6.0 L engines could be replaced with 5.3 L engines without notably degrading the cargo and towing capacity of these vehicles. If this were the only change made to GM's light truck fleet, it would increase GM's projected CAFE by 0.1 mpg for MYs 2005–2007.

The potential improvements to the GM light truck CAFE are summarized in the following table. Due to rounding, the individual improvements may not equal the potential CAFE for GM.

POTENTIAL GM CAFE IMPROVEMENTS, MPG

Model year	Stage 1 improvements	Stage 2 improvements	Stage 3 improvements	Total	Potential CAFE, mpg.
2005	.439	.466	.1065	1.012	20.97
2006	.936	.502	.0616	1.500	21.63
2007	.921	.496	.0825	1.499	22.29

Although General Motors also included a discussion of uncertainties and penalties that could adversely affect its fuel economy levels, we did not make further adjustments to account for these reservations. We believe that the increasing popularity of crossover vehicles may limit the future sales of full size Sport Utility Vehicles, and that the increasing use of traction control and limited slip differentials could replace 4WD in many applications at both lower cost and weight.

B. Ford Motor Company

Ford's submission included information similar to that provided by General Motors. The agency engaged in the same type of analysis in assessing Ford's potential fuel economy capabilities as it did in assessing GM's potential capabilities.

Our Stage 1 analysis showed that Ford could employ one technology on certain models by MY 2005, with an additional technology employed on certain models by MY 2007. The agency used the numbers provided by Ford for percentage increase in fuel economy in calculating the possible fuel economy increase attributable to each of these technologies. We did not carry over the benefits for the MY 2005 technology to further years because Ford is redesigning many of these vehicles in MY 2006–2007 and appears to have included this technology in calculating its fuel economy estimates. Starting with MY 2007, Ford could use another technology on some vehicles.

Our Stage 2 analysis showed that by MY 2007, Ford could offer two technologies two years earlier, one of which requires the use of an additional complimentary technology, with all carrying over into future model years.

The Stage 3 analysis projects potential CAFE improvements resulting from moving the sales of vehicles equipped with 6.0L or larger engines to almost identical models equipped with slightly smaller engines. Ford does not project the production of any vehicles with a 6.0L engine or larger engine, thus there are no potential CAFE increases resulting from Stage 3.

Based on these assessments, the agency has estimated modest adjustments to the projections based on Ford's data. We estimate that Ford can achieve an additional .08 mpg in CAFE performance through Stage 1 improvements in MY 2005 and an additional .02 mpg in Stage 1 and .17 mpg in Stage 2 improvements in MY 2007. These CAFE adjustments result in CAFE capability of 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007. Ford also described a number of risks and opportunities in its submission. Ford stated that its initial estimates of fuel economy improvements are typically higher than what actual production vehicles achieve. NHTSA didn't downwardly adjust Ford's estimates because the agency believes that its estimates of the effectiveness of fuel economy technologies—which are based on confidential data, the NAS study, publicly available information, and engineering judgment—are reasonable.

C. DaimlerChrysler

DaimlerChrysler's plans include comparatively more fuel-efficient technologies in MYs 2005–2007, including the use of Stage 2 technology. Although Honda may be incorporating slightly more advanced technology than DaimlerChrysler, the level of detail Honda provided is insufficient to allow us to conclude that DaimlerChrysler could enhance its fuel economy performance through the use of technologies similar to those employed by Honda. Therefore, the agency has not adjusted DaimlerChrysler's numbers to incorporate additional Stage 1 or Stage 2 technologies.

The Stage 3 analysis includes projections of the potential CAFE increase that could result from moving the sales of vehicles equipped with 6.0L or larger engines to almost identical models equipped with 5.3L or larger engines. The potential Stage 3 improvements to the DaimlerChrysler light truck CAFE result in a .02 mpg improvement in Stage 3 adjustment in MY 2006 and a .01 mpg Stage 3 adjustment in MY 2007. Accordingly, we estimate DaimlerChrysler's light truck CAFE capability to be 21.3 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007.

DaimlerChrysler indicated that its fuel economy estimates include risks that their CAFE projections won't be met due to technology issues, product offerings, consumer acceptance, future safety regulations and the economic climate. NHTSA didn't downwardly adjust DaimlerChrysler's estimates because the agency believes that its estimates of the effectiveness of fuel economy technologies—which are based on confidential data, the NAS study, publicly available information, and engineering judgment—are reasonable.

VI. Economic Practicability

The agency has historically reviewed whether a CAFE standard is economically practicable in terms of whether the standard is one "within the financial capability of the industry, but not so stringent as to threaten substantial economic hardship for the industry." *See, e.g., Public Citizen* v. *National Highway Traffic Safety Administration,* 848 F.2d 256, 264 (D.C. Cir. 1988). In essence, the agency reviews what is technologically feasible for manufacturers to achieve without leading to adverse economic consequences, such as a significant loss of jobs or the unreasonable elimination of consumer choice. The CAFE statute does not compel that fuel savings be gained at the expense of American jobs or competition within the motor vehicle market.

At the same time, the law does not preclude a CAFE standard that poses reasonable, even if considerable, challenges to any individual manufacturer. The Conference Report makes clear, and the case law affirms, that "a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy." *CEI–I*, 793 F.2d 1322, 1352 (D.C. Cir. 1986). Instead, the agency is compelled "to weigh the benefits to the nation of a higher fuel economy standard against the difficulties of individual automobile manufacturers." *Id.* The statute permits the imposition of reasonable, "technology forcing" challenges on any individual manufacturer, but does not contemplate standards that will result in "severe" economic hardship by forcing reductions in employment or impeding competition.

In the past, the agency has set CAFE standards above its estimate of the capabilities of a manufacturer with less than a substantial, but more than a de minimus, share of the market. See, *e.g., Center for Auto Safety* v. *National Highway Traffic Safety Administration,* 793 F.2d 1322, 1326 (D.C. Cir. 1986) (noting that the agency set the MY 1982 light truck standard at a level that might be above the capabilities of Chrysler, based on the conclusion that the energy benefits associated with the higher standard would outweigh the harm to Chrysler, and further noting that Chrysler had 10–15% market share while Ford had 35% market share). On another occasion the agency has reduced the CAFE standard to address unanticipated market conditions that rendered the established CAFE standard unreasonable and likely to lead to severe economic consequences. 49 FR 41250, 50 FR 40528, 53 FR 39275, *Public Citizen* v. *National Highway Traffic Safety Administration,* 848 F.2d 256, 264 (D.C. Cir. 1988).

The agency has estimated not only the anticipated costs imposed on GM, Ford and DaimlerChrysler to comply with the proposed standards, but also the significance of the societal benefits anticipated to be achieved through direct and indirect fuel savings. We have tentatively concluded that these proposals need not result in significant reductions in employment or competition, and that—while challenging—they are achievable within the framework described above, and that they will benefit society considerably. For the sake of this analysis, we have translated the societal benefits into dollar values and compared those values to our estimated costs to the manufacturers for this proposal.

A. Costs to the Manufacturers

In order to estimate the costs of complying with the proposed standards, the agency developed cost estimates for the various technologies NHTSA expects manufacturers to employ to improve fuel efficiency. Our cost estimates were based on two principal considerations. We first assumed that manufacturers would apply technologies in keeping with our analysis of feasible Stage 1, Stage 2 and Stage 3 technologies. Second, we also assumed that manufacturers would apply less costly technologies before those that are more costly (ranked on a cost per mpg investment basis).

Within the range of values anticipated for each technology, we selected the ‘‘expected’’ cost impacts and fuel consumption impacts considered most plausible during the model years under consideration for the industry in general. Some manufacturers might achieve more benefit than others using similar technologies or on specific vehicles. However, this analysis assumes an equal impact from specific technologies for all manufacturers and vehicles. The technologies were ranked based on the cost per percentage point improvement in fuel economy and applied where available to each manufacturer's fleet in their order of rank. For example, we estimated that greater use of variable valve timing would yield a 1% improvement in fuel economy at a cost of $89 per vehicle. This measure would therefore be applied after engine friction reduction technologies, which we estimated would produce a 1.5% improvement in fuel economy at a cost of $35, yielding a cost per percentage point improvement of $23. The complete list of the technologies and the agency's estimates of cost and yield may be found in the PEA.

Using the estimated costs and yields for the different technologies, the agency then examined the projections provided by different manufacturers for their light truck fleet fuel economy for the 2005–2007 model years. Although the details of the projections of individual manufacturers are confidential, present fuel economy performance indicates that some manufacturers would, if their fleets remain unchanged, be able to meet the proposed standards without significant expenditures. Other manufacturers will have to expend significantly more effort to meet the proposed standards.

NHTSA estimates the average incremental cost per vehicle needed to meet the proposed standards to be $14 for MY 2005, $28 for MY 2006, and $47 for MY 2007. The total incremental cost (the cost necessary to bring the corporate average fuel economy for light trucks from 20.7 mpg to the proposed standards) is estimated to be $108 million for MY 2005, $221 million for MY 2006, and $373 million for MY 2007. More detailed specifics on the methodology employed are included in the PEA.

While we have also conducted an analysis of the potential job losses arising should manufacturers choose to restrict products in lieu of incorporating technologies into their product plans, we believe product restrictions and associated employment reductions to be unnecessary to meet the proposed CAFE standards. We acknowledge that we have proposed some changes in engine assignments, but believe that these changes will neither change the basic utility of the trucks in terms of their cargo carrying and towing capacities nor require a substantial shift in product mix that will have economic significance.

The fact that consumers are willing to pay higher prices for the larger engine suggests that they place some value on the additional horsepower. We seek comment on whether consumers are more likely to buy larger trucks, beyond the purview of the CAFE program, to obtain the perceived benefit, or whether they are more likely to purchase trucks of like size with slightly smaller engines.

The agency has long recognized that one way to meet a CAFE standard is to restrict the availability of products that reduce, rather than enhance, a company's fleet wide corporate average fuel economy level. Conversely, the agency also acknowledges that restricting available product can adversely affect fuel economy. Consumers unable to obtain light trucks at or near the maximum weight vehicle within the CAFE limit (currently 8500 pounds GVWR) may choose to purchase vehicles above that weight. Such vehicles may be more readily available since they are outside the purview of the CAFE program. Of course, compliance through product restriction also poses the possibility of limiting consumer choice.

The agency has tentatively concluded that it is unnecessary for any manufacturer to restrict the utility of their products to meet our proposed CAFE standards. Accordingly, we do not believe that any employment restriction should result from this proposal.

B. Benefits to Society From This Proposal

The agency also performed an analysis of the economic and environmental benefits of this proposal by performing estimates of fuel savings over the lifetime of the model year (approximately 25 years). Impacts other than direct fuel savings were translated into dollar values and then factored into our cumulative estimates. Therefore, each impact is measured by the difference between a measure—such as total gallons of fuel consumed by light trucks produced during a single model year over its entire 25-year life span in the fleet—under the manufacturer plans compared to the fuel consumed with a stricter standard in effect. The agency's analysis estimated future impacts in both undiscounted terms and by their present value discounted using a 7 annual percent discount rate.

In estimating the direct benefits of decreased fuel consumption, forecasts of light truck sales for future years were obtained from the Energy Information Administration's (EIA) Annual Energy Outlook 2002 (AEO 2002). Fuel economy performance for each future model year's light trucks under the current CAFE standard and with alternative standards in effect were estimated using the agency's projections for the application of fuel saving technologies. As shown in our PEA, NHTSA estimates that approximately 7,654,000 light trucks will be sold in the 2005 model year. For the 2006 and 2007 model years, the estimates are 7,795,000 and 7,922,000 vehicles respectively.

The economic value of annual fuel savings resulting from higher light truck CAFE standards was then assessed by applying the Energy Information Administration's AEO 2002 forecast of future fuel prices to each year's estimated fuel savings. In turn, future fuel savings were estimated by dividing the total number of miles the surviving population of vehicles of that model year are estimated to be driven by the average on-road fuel economy level associated with the base standard of 20.7 mpg. NHTSA then assumed that if the same trucks met a higher CAFE standard when sold, their total fuel consumption during each subsequent calendar year is calculated by dividing the increased number of miles they are driven as a result of the higher fuel economy resulting from that standard. The sum of these annual fuel savings over each calendar year that vehicles remain in service represents the cumulative fuel savings resulting from applying a stricter CAFE standard to light trucks produced during that model year.

NHTSA's analysis of the benefits of external factors totaled $0.083 per gallon of gasoline, including $0.048 for ''monopsony'' effect (the effect on the world market price of gasoline from reducing U.S. demand), and $0.035 for reducing the threat of supply disruptions. Incorporating these indirect benefits into the direct benefits of fuel saved as a result of higher CAFE standards produced an incremental benefit to consumers, when reduced to present value, of $29 per vehicle for MY 2005, $66 per vehicle for MY 2006 and $100 per vehicle for MY 2007. The total present value of these direct and indirect benefits is estimated to be $219 million for MY 2005, $512 million for MY 2006 and $792 million for MY 2007.

We have also analyzed the effect of the proposed standard on vehicle emissions. Estimates of the reduced economic value of damages to human health resulting from emissions of regulated air pollutants were obtained from a detailed recent analysis conducted by the Environmental Protection Agency. These estimates were applied to the estimated changes in emissions of each criteria pollutant to determine the resulting change in damage costs caused by that pollutant. Because reliable estimates of damage costs from contributions to potential climate change by emissions of carbon dioxide, other greenhouse gases and airborne toxic pollutants are not yet available, the PEA did not assign a monetary value to changes in these particular emissions. Our analysis indicated that the proposed MY 2005 standard would result in a net reduction of criteria pollutants with a present value of $179,200. For MY 2006, this net reduction would have a present value of $818,500 and for MY 2007 the net reduction of criteria pollutants would have value of $1,644,400.

C. Comparison of Estimated Industry Costs v. Estimated Societal Benefits

In sum, then, the total incremental costs by model year compared to the incremental societal benefits by model year are as follows:

	Total costs (million)	Total societal benefits (million)	Net benefits (million)
MY 2005	$108	$219	$111
MY 2006	221	513	292
MY 2007	373	794	421

In light of these figures, we have tentatively concluded that the proposal serves the overall interests of the American people and is consistent with the balancing Congress has compelled us to do when establishing corporate average fuel economy levels. For all the reasons stated above, we believe the proposal is economically practicable and, independently, that it is a cost beneficial advancement for American society.

In a well-functioning market with fully informed consumers and manufacturers, consumers would take into account the savings to themselves associated with more fuel-efficient vehicles. If the value of cumulative fuel savings exceeded the additional price and associated financing cost of purchasing a more fuel-efficient vehicle, consumers should be inclined to buy these vehicles and producers should be inclined to sell them. The NHTSA estimates find that the direct fuel-savings to consumers account for the majority of the total social benefits, and exceed the estimated costs of adopting more fuel-efficient technologies. Thus, the question arises as to what market conditions could explain this situation and whether fuel saving technologies will be adopted in the absence of increasing CAFE standards.

One possibility is that consumers have not demanded greater fuel efficiency, despite the benefits to be gained, because of the difficulty and time involved in calculating the total savings associated with purchasing a more fuel-efficient vehicle. As a percentage of new vehicle purchase prices, the savings and costs of fuel economy increases are relatively small. Assuming the NHTSA calculations are correct and that light truck markets are reasonably competitive, consumers generally could be made better off if manufacturers were forced to offer more fuel efficiency. A more remote possibility is that the light truck market is not sufficiently competitive and manufacturers can survive without maximizing profits. In that case market forces would not be sufficient to ensure that manufacturers include in their vehicles fuel-saving technologies even though doing so would increase profits. A final possibility is that NHTSA's cost and/or benefit estimates are incomplete. For example, it could be that greater fuel efficiency comes with tradeoffs in power, safety, and design not accounted for in NHTSA's estimated costs, that the engineering costs of implementing new technologies are actually greater than those estimated, or that the actual fuel savings are less than those estimated. The agency invites comments on the ability of consumers to compare capital costs to expected fuel savings, the cost to them of doing so, as well as suggestions for facilitating these calculations. The agency also invites comments on the competitiveness of the light truck market and the technical tradeoffs between fuel efficiency and other characteristics of light trucks that consumers value.

As part of the interagency review process, the Energy Information Agency (EIA) has provided NHTSA with a preliminary analysis of the energy and economic impacts of an increase in light truck fuel economy standards comparable to the proposed rule. Specifically, EIA analyzed standards of 21.2, 21.7, and 22.2 mpg for model years 2005–2007, respectively. Using its National Energy Modeling System (NEMS), EIA's analysis indicates that the actual average fuel economy of new light trucks would increase to 21.7 mpg in model year 2005—well beyond the 21.2 mpg required during that year—but would fall slightly short of the 22.2 mpg standard by model year 2007. The EIA analysis also projects that NHTSA's proposed rule would cause a greater increase in the cost of light trucks than estimated by NHTSA and a slight reduction in the average weight of light trucks. NHTSA estimated no weight reduction. EIA's estimates of fuel savings resulting from stricter CAFE standards for light trucks also appear to be larger than those calculated in NHTSA's analysis. Finally, EIA's projected effects on employment and real GDP are slightly negative through 2010, but become positive during 2011 to 2020.

The differences in results of the two analyses of the proposed light truck standards stem primarily from differences in the underlying approaches of models. For example, the NEMS model effectively treats all manufacturers identically whereas NHTSA's approach relies heavily on detailed manufacturer-specific data. As a result of these differences, NHTSA's approach has advantages for analyzing the effects of near-term modest increases while the NEMS approach is more useful for analyzing longer-term industry-wide effects of larger increases in the standards. For shorter-term analysis of modest increases in required fuel economy levels, confidential information about the differences in the relative fuel economy capabilities of the individual manufacturers at the model-specific level is essential. This is because the technology application burdens and cost impacts imposed on individual manufacturers by the stricter standards will differ significantly. Where longer-term, industry-wide analysis of significant increases in fuel economy standards is required, current differences in manufacturer capabilities become much less relevant. In addition, NEMS' ability to estimate macroeconomic ''feedbacks'' from stricter CAFE standards is very useful.

EIA's analysis has been included in the public docket for this rulemaking. NHTSA welcomes comment and wants to ensure that the CAFE program and future increases in CAFE standards do not adversely impact vehicle safety or employment. To this end, the agency is examining possible reforms to the CAFE system and may later propose specific reforms if they are superior to the current system in terms of improving fuel economy without negative safety and employment consequences.

VII. The Effect of Other Government Regulations on Fuel Economy

The statute specifically directs us to consider the impact other government regulations have on fuel economy. This statutory factor constitutes an express recognition that fuel economy standards should not be set without due consideration given to other regulatory concerns, such as motor vehicle and passenger safety and motor vehicle emissions. The primary influence of many of these policies is the addition of weight to the vehicle, with the commensurate reduction in fuel economy.

A. Federal Motor Vehicle Safety Standards

The agency has evaluated the impact of the Federal motor vehicle safety standards using MY 2001 vehicles as a baseline. We have issued or are about to issue a number of Federal motor vehicle safety standards that become effective between the MY 2001 baseline and MY 2007. The fuel economy impact, if any, of these new requirements would take the form of increased vehicle weight resulting from the design changes needed to meet new standards.

The average test weight (roughly equal to curb weight plus 300 pounds) of the light truck fleet in MY 2001 was 4,501 pounds. The average test weight for General Motors, Ford, and DaimlerChrysler light trucks subject to the standard for MY 2001 was 4,627 pounds. Our review of new safety requirements that will apply to the MY 2005–2007 light truck fleet indicates that compliance with the following safety standards will have an impact on vehicle weight:

i. FMVSS 138, Tire Pressure Monitoring System

As required by the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, NHTSA is requiring Tire Pressure Monitoring Systems be installed in all passenger cars, multipurpose passenger vehicles, trucks and buses that have a GVWR of 10,000 pounds or less, effective in November 2003. We estimate the weight that would be added consists of electrical parts that would not weigh more than half a pound (0.23 kilograms or less) per vehicle.

ii. FMVSS 139, Tire Upgrade

The TREAD Act mandated rulemaking to revise and update our safety performance requirements for tires. While the agency's Preliminary Economic Assessment of the proposed tire upgrade indicated there would be added cost for the improved tires but no increased weight, it is possible that some vehicles would need larger tires, which would add an undetermined minimal amount of weight to those vehicles.

iii. FMVSS 201, Occupant Protection in Interior Impact

This standard specifies requirements to afford protection for occupants from impacts with interior parts of the vehicle. The new amendment relates to upper pillars, front and rear headers, the side roof rails and other upper interior parts. It applies to passenger cars and to multipurpose vehicles, trucks, and buses with a GVWR of 10,000 pounds (4,536 kilograms) or less. Additional padding could be added or pillars could be redesigned to pass the upgraded standard. We estimate the average weight gain would be 7.5 pounds (3.4 kilograms) per vehicle.

iv. FMVSS 202, Head Restraints

This proposed regulation would improve front seat head restraints in passenger cars, pickups, vans, and utility vehicles and require head restraints in the rear outboard positions. Because many pickup trucks and some vans do not have back seats, the average weight increase for this standard is lower than for automobiles. We estimate the average weight gain across light trucks, vans and SUVs would add 4.3 pounds (1.94 kilograms) per vehicle.

v. FMVSS 208, Occupant Crash Protection

This rule amends our occupant crash protection standard to require that future air bags be designed to create less risk of serious air bag-induced injuries than current air bags, particularly for small women and young children; and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology. Additional weight would come from sensors, switches, indicators, and associated electrical equipment. We estimate the average weight gain would be 3.4 pounds (1.54 kilograms).

vi. FMVSS 225, Child Restraint Anchorage Systems

The Final Economic Assessment (February 1999) for FMVSS 213 and 225 estimates the additional weight for improved anchorages would be less than 1 pound (0.45 kilogram).

vii. FMVSS 301, Fuel System Integrity

This proposed rule would amend the testing standards for rear-end and side crashes and resulting fuel leaks. Although a few models (generally in the middle of their production lives) might require heavy additions such as a polymer guard for the bottom of the fuel tank, most would not. Many vehicles already pass the more stringent standards, and those affected are not likely to be pick-up trucks or vans. It is estimated that weight added will be only lightweight items such as a flexible filler neck. We estimate the average weight gain across this vehicle class would be 0.24 pounds (0.11 kilograms) per vehicle.

In summary, NHTSA estimates that weight additions required by FMVSS regulations that will be effective between the MY 2001 fleet and MY 2007 fleet will average about 17 pounds per vehicle. As indicated elsewhere, the agency expects that manufacturers will not use weight reduction as one of the technologies available to improve fuel economy. As our analysis of feasible improvements in fuel economy assumes that manufacturer projections of future vehicle weights are valid and does not change these weights, weight increases due to new safety standard requirements, or whatever voluntary safety improvements the manufacturers are planning, will occur without the manufacturers being penalized by having to reduce weight to meet a fuel economy standard.

B. Federal Motor Vehicle Emissions Standards

With input from the United States Environmental Protection Agency (EPA), NHTSA has evaluated the impact of a number of vehicle related emissions standards on fuel economy. In addition, NHTSA's Environmental Assessment examines how the proposed average fuel economy standard impacts air quality (the enhancement of which is at the core of the relevant EPA and state regulations) by affecting emissions of criteria pollutants. Many of these regulations are currently being incorporated into the vehicle fleet through a multi-year phase-in. NHTSA believes there to be no significant fuel economy impact between the baseline MY 2001 and MY 2007 resulting from federal or state emissions regulations.

The state of California has, in recent court filings, asserted that NHTSA has not treated the CAFE statute as preempting state efforts to engage in CAFE related regulation, stating that ''time and time again, NHTSA in setting CAFE standards has commented on the fuel economy effects of California's emissions regulations, and not once has it even suggested that these were preempted.'' *See* Appellants Opening Brief filed on behalf Michael P. Kenny in *Central Valley Chrysler-Plymouth, Inc. et. al.* v. *Michael P. Kenny,* No. 02–16395, at p. 33 (9th Circuit 2002). As a result, the State suggests that it may, consistent with federal law, issue regulations that relate to fuel economy.

The State misses the point. The agency reviews emissions requirements to ensure that we do not establish a standard that is infeasible in light of other public policy considerations, including federal and state efforts to regulate emissions. Thus, we consider potential fuel economy losses due to more stringent emissions requirements when we determine maximum feasible fuel economy levels.

This does not mean that a state may issue a regulation that relates to fuel economy and which addresses the same public policy concern as the CAFE statute. Our statute contains a broad preemption provision making clear the need for a uniform, federal system: ''When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.'' 49 U.S.C. 32919(a).

The fact that NHTSA had not expressly addressed this particular aspect of California's requirements should not have been interpreted as tacit acceptance. Indeed, the United States has taken the express position in the *Kenny* case that it has a substantial interest in enforcing the federal fuel economy standards and in ensuring that states adhere to the Congressional directive prohibiting them from adopting or enforcing any law or regulation related to fuel economy or average fuel economy standards.

i. Tier 2 Requirements

On February 10, 2000, EPA published a final rule (65 FR 6698) establishing new federal emissions standards for vehicles classified by EPA as passenger cars, light trucks and medium duty vehicles. These new emissions standards, known as Tier 2 standards, are designed to focus on reducing the emissions most responsible for the ozone and particulate matter (PM) impact from these vehicles. The program also applies the same set of federal standards to all passenger cars, light trucks, and medium-duty passenger vehicles. Under the Tier 2 standards, light trucks include ''light light-duty trucks'' (or LLDTs), rated at less than 6000 pounds GVWR and ''heavy light-duty trucks'' (or HLDTs), rated at more than 6000 pounds GVWR. For new passenger cars and light LDTs, the Tier 2 standards phase-in beginning in MY 2004, and are to be fully phased-in by MY 2007. During the phase-in period of MYs 2004–2007, all passenger cars and light LDTs not certified to the primary Tier 2 standards must meet an interim standard equivalent to the current National Low Emission Vehicle (NLEV) standards for light duty vehicles. In addition to establishing new emissions standards for vehicles, the Tier 2 standards also establish limits for the sulfur content of gasoline.

When issuing the Tier 2 standards, EPA responded to comments regarding the impact of the Tier 2 standard and its impact on the Supplemental Federal Test Procedure by indicating that it believed that the Tier 2 standards would not have an adverse effect on fuel economy.

In setting the MY 2004 light truck CAFE standard, we noted that one of the commenters indicated that the Tier 2 standards would impact on its ability to meet fuel economy standards. DaimlerChrysler, while addressing its strong support for continuation of the dual-fuel incentive program, stated that the Tier 2 standards presented special challenges for ethanol-fueled vehicles. The company did not, however, indicate the nature of these challenges and the degree to which the Tier 2 standards would impact on its ability to meet the CAFE light truck standard. Therefore, we have no basis to suggest the Tier 2 standards will adversely affect fuel economy.

ii. Onboard Refueling Vapor Recovery

On April 6, 1994, EPA published in the **Federal Register** a final rule (59 FR 16262) controlling vehicle-refueling emissions through the use of onboard refueling vapor recovery (ORVR) vehicle-based systems. These requirements applied to light-duty vehicles beginning in the 1998 model year, and were phased-in over three model years. The ORVR requirements also apply to light-duty trucks with a gross vehicle weight rating up to 6000 lbs, beginning in model year 2001 and phasing-in over three model years at the same rate as for light-duty vehicles. For light-duty trucks with a gross vehicle weight rating of 6001–8500 lbs, the ORVR requirements first apply in the 2004 model year and phase-in over three model years at the same rate as light-duty vehicles.

The ORVR requirements impose a weight penalty on vehicles as they necessitate the installation of vapor recovery canisters and associated tubing and hardware. However, the operation of the ORVR system results in fuel vapors being made available to the engine for combustion while the vehicle is being operated. As these vapors provide an additional source of energy that would otherwise be lost to the atmosphere through evaporation, the ORVR requirements do not have a net negative impact on fuel economy.

iii. Supplemental Federal Test Procedure

The Federal Test Procedure (FTP) contains the test conditions and procedures used by the EPA when conducting new vehicle emissions and fuel economy tests. On October 26, 1996, EPA issued a final rule (61 FR 54852) revising the tailpipe emission portions of the Federal Test Procedure (FTP) for light-duty vehicles (LDVs) and light-duty trucks (LDTs). The revision created a Supplemental Federal Test Procedure (SFTP) designed to address shortcomings with the existing FTP in the representation of aggressive (high speed and/or high acceleration) driving behavior, rapid speed fluctuations, driving behavior following startup, and use of air conditioning. The SFTP also contains requirements designed to more accurately reflect real road forces on the test dynamometer. EPA chose to apply the SFTP requirements to trucks through a phase-in. Light-duty trucks with a gross vehicle weight rating (GVWR) up to 6000 lbs were subject to a three-year phase-in ending in the 2002 model year. Heavy light-duty trucks, those with a GVWR greater than 6000 lbs but not greater than 8500 lbs, are subject to a phase-in in which 40 percent of each manufacturer's production must meet the SFTP requirements in the 2002 model year, 80 percent in 2003, and 100 percent in the 2004 model year.

The 2004 model year represents the final phase-in year for light trucks subject to CAFE standards. Although DaimlerChrysler has indicated that the changes to the FTP will have a disproportionately negative impact on light truck fuel economy, EPA has determined that the net effect on fuel economy for the recent test procedure changes is near zero. EPA considered the effects of four test changes: single-roll electric dynamometer with full-speed load simulation, elimination of the 10% air conditioning load factor, elimination of the 5500 maximum test weight for cars, and improved test equipment. While some changes decreased measured fuel economy, others raised it; with the net result of a near zero effect. This determination was based on the total fleet, which is a mix of front wheel drive and rear wheel drive cars and trucks.

Considering trucks alone is not likely to change that determination. Trucks, as a sub-class, have a larger mix of rear wheel drive vehicles than the combined fleet. This would lead to a slightly increased effect of the single roll dynamometer and thereby slightly lower measured fuel economy. However, the truck sub-class also has higher road load horsepower than the combined fleet. This would lead to slightly higher effects due to the elimination of the 10% air conditioning load and thereby slightly higher measured fuel economy. The net effect of the combined test procedure changes on the truck sub-class is still expected to be near zero.

iv. California Air Resources Board LEV II and Section 177 States

The State of California Low Emission Vehicle II regulations (LEV II) will apply to passenger cars and light trucks in the 2004 model year. The LEV II amendments restructure the light-duty truck category so that trucks with a gross vehicle weight rating of 8,500 pounds or lower are subject to the same low-emission vehicle standards as passenger cars. LEV II requirements also include more stringent emission standards for passenger car and light-duty truck LEVs and ultra low emission vehicles (ULEVs), and establish phase-in requirements that begin in 2004. During the initial year of the four-year phase-in, the LEV II standards require that 25 percent of production comply.

Comments submitted by DaimlerChrysler indicated that company's concern that compliance with LEV II requirements may be difficult for dual-fuel vehicles. The company, did not, however, provide any details or data regarding these challenges.

The term ''Section 177 States'' refers to states that voluntarily adopt the more stringent California emissions standards. As of November 2000, Massachusetts, New York and Maine had adopted the California Low Emission Vehicle (LEV) program. NHTSA has not received any data showing any impact on the 2004 light truck fuel economy capabilities as a result of states other than California adopting the California emissions standards.

VII. The Need of the Nation To Conserve Energy

The Energy Policy and Conservation Act (EPCA) arose in response to the energy crises created by the oil embargo of 1973–1974. The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. The Department is specifically directed by the Act to balance the technological and economic challenges with the nation's need to conserve energy.

While EPCA grew out of the energy crisis of the 1970s, the United States also faces considerable energy challenges today. As made clear in the National Energy Policy, efficient energy use and conservation are important elements of a comprehensive program to address the nation's current energy challenges:

> America's current energy challenges can be met with rapidly improving technology, dedicated leadership, and a comprehensive approach to our energy needs. Our challenge is clear—we must use technology to reduce demand for energy, repair and maintain our energy infrastructure, and increase energy supply. Today, the United States remains the world's undisputed technological leader: but recent events have demonstrated that we have yet to integrate 21st-century technology into an energy plan that is focused on wise energy use, production, efficiency, and conservation.

Conserving energy, especially reducing the nation's dependence on imported petroleum, benefits the nation's efforts to address the energy challenges in several ways. Reducing total petroleum use and reducing petroleum imports decrease our economy's vulnerability to oil price shocks and improves our national security.

We believe that the Administration's support of continued development of advanced technology, such as fuel cell technology, and an infrastructure to support it, may help to achieve significant reductions in foreign oil dependence and stability in the world oil market. The continued infusion of hybrid propulsion and advanced diesel vehicles into the U.S. light truck fleet may also contribute to reduced dependence on petroleum. However, as noted above, these technologies are not likely to substantially infuse into the light truck market in the relative short term.

We have tentatively concluded that the proposed light truck CAFE standards will be important contributors to the comprehensive program of addressing the nation's more immediate energy challenges. The transportation sector consumes the majority of the petroleum used in the United States. Within the transportation sector, passenger cars and light trucks, the vehicles covered by fuel economy standards account for almost 60% of petroleum consumption.

Our analysis suggests that increasing the CAFE standards, as proposed, will contribute to energy conservation. In assessing the impact of the proposal, we accounted for the increased vehicle mileage that accompanies reduced costs to consumers associated with greater fuel efficiency and have tentatively concluded that the proposal will lead to considerable fuel saving. While increasing fuel economy without increasing the cost of fuel will lead to some additional vehicle travel, the overall impact on fuel conservation remains positive. Increasing fuel economy by 10% will produce an estimated 8–9% reduction in fuel consumption.

We acknowledge that, despite the CAFE program, the United States' dependence on foreign oil and petroleum consumption has increased in recent years. Nonetheless, data suggests that past fuel economy increases have had a major impact on U.S. petroleum use. The National Research Council determined that if the fuel efficiency of the vehicle fleet had not improved since the 1970s, the U.S. gasoline consumption and oil imports would be about 2.8 million barrels per day higher than they are today. Although a nearly complete turnover of the light duty vehicle fleet takes about 15 years, increases in the fuel economy of new vehicles eventually raise the fuel efficiency of all vehicles as older cars and trucks are scrapped.

Nor do we believe that the proposed increases in the light truck CAFE standards applicable to the 2005–2007 MYs will unduly lead to so-called ''energy waste.'' This theory, presented in comments responding to our Request for Comments, rests on the notion that efforts to reduce energy use can result in negative economic effects from losses in product values, profits and worker incomes. As discussed above, the agency has determined that the proposed CAFE standards can be achieved through the use of available technologies and without imposing product restrictions, job losses or adverse safety consequences. Within the bounds of technological feasibility and economic practicability, the proposal will in fact enhance ''energy efficiency'' without adverse ancillary effects.

VIII. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to OMB review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

The rulemaking proposed in this Notice of Proposed Rulemaking will be economically significant if adopted. Accordingly, OMB reviewed it under Executive Order 12866. The rule, if adopted, would also be significant within the meaning of the Department of Transportation's Regulatory Policies and Procedures. The agency has estimated that compliance with the average fuel economy standards proposed would cost over $100 million.

Because the proposed rule is major and economically significant, the agency has prepared a Preliminary Economic Assessment and placed it in the docket and on the agency's Web site.

B. National Environmental Policy Act

Consistent with the requirements of the National Environmental Policy Act and the regulations of the Council on Environmental Quality, the agency has prepared a Draft Environmental Assessment of this proposed action, and has placed the analysis in the docket. Based on the Draft Environmental Assessment, the agency does not, at this time, anticipate that the proposed action will have a significant effect on the quality of the human environment. The agency seeks comments on the Draft Environmental Assessment.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act and certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that there are no single stage light truck manufacturers within the United States with 1,000 or fewer employees.

D. Executive Order 13132 Federalism

Executive Order 13132 requires NHTSA 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.'' Executive Order 13132 defines the term ''Policies that have federalism implications'' to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This Notice of Proposed Rulemaking 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 as specified in Executive Order 13132. The statute under which the CAFE program is administered clearly states that states may not adopt or enforce any law or regulation that relates to fuel economy standards. 49 U.S.C. 32919(a). Thus, the requirements of section 6 of the Executive Order do not apply to this notice.

E. The Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, of more than $100 million annually, but it will result in the expenditure of that magnitude by vehicle manufacturers and/or their suppliers. In promulgating this proposal, NHTSA considered whether average fuel economy standards lower and higher than those proposed would be appropriate. NHTSA has tentatively concluded that the proposed standards are the maximum feasible standards for the light truck fleet for MYs 2005–2007 in light of the statutory considerations.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There are no new information collection requirements in this proposal.

G. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

H. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

• Have we organized the material to suit the public's needs?

• Are the requirements in the notice clearly stated?

• Does the notice contain technical language or jargon that is not clear?

• Would a different format (grouping and order of sections, use of headings, paragraphing) make the notice easier to understand?

• Would more (but shorter) sections be better?

• Could we improve clarity by adding tables, lists, or diagrams?

• What else could we do to make the notice easier to understand?

If you have any responses to these questions, please forward them to Otto Matheke, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

I. Executive Order 13045

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

This proposed rule does not have a disproportionate effect on children. The primary effect of this proposal is to conserve energy resources by setting fuel economy standards for light trucks.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [2] in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

There are no voluntary consensus standards for U.S. fuel economy. Therefore, setting this future standard does not involve the use of any voluntary standards.

K. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If the regulatory action meets either criterion, we must evaluate the adverse energy effects of the planned rule and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

The proposed rule seeks to establish light truck fuel economy standards that will reduce the consumption of petroleum and will not have any adverse energy effects. Accordingly, this rulemaking action is not designated as a significant energy action.

L. Department of Energy Review

In accordance with 49 U.S.C. 32902(j), we submitted this proposed rule to the Department of Energy for review. That Department did not make any comments that we have not addressed.

IX. Comments

Submission of Comments

How Can I Influence NHTSA's Thinking on This Notice?

In developing this notice, we tried to address the concerns of all our stakeholders. Your comments will help us determine what standards should be set for light truck fuel economy. We invite you to provide different views on questions we ask, new approaches and

[2] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specification and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

technologies we did not ask about, new data, how this notice may affect you, or other relevant information. We welcome your views on all aspects of this notice, but request comments on specific issues throughout this notice. We grouped these specific requests near the end of the sections in which we discuss the relevant issues. Your comments will be most effective if you follow the suggestions below:

• Explain your views and reasoning as clearly as possible.

• Provide empirical evidence, wherever possible, to support your views.

• If you estimate potential costs, explain how you arrived at the estimate.

• Provide specific examples to illustrate your concerns.

• Offer specific alternatives.

• Refer your comments to specific sections of the notice, such as the units or page numbers of the preamble, or the regulatory sections.

• Be sure to include the name, date, and docket number of the proceeding with your comments.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. Each electronic filer will receive electronic confirmation that his or her submission has been received.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a proposed rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted By Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–2002–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR Part 533

Energy conservation, Motor vehicles.

PART 533—[AMENDED]

In consideration of the foregoing, 49 CFR part 533 would be amended as follows:

1. The authority citation for part 533 would continue to read as follows:

Authority: 49 U.S.C. 32902; delegation of authority at 49 CFR 1.50.

2. Section 533.5(a) would be amended by revising Table IV to read as follows:

§ 533.5 Requirements.

(a) * * *

TABLE IV

Model year	Standard
2001	20.7
2002	20.7
2003	20.7
2004	20.7
2005	21.0
2006	21.6
2007	22.2

* * * * *

Issued: December 10, 2002.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 02–31522 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 67, No. 241

Monday, December 16, 2002

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 10, 2002.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Research Service

Title: Meeting the Information Requirements of the Animal Welfare Act Workshop Registration Form.

OMB Control Number: 0158–NEW.

Summary of Collection: The U.S. Department of Agriculture, National Agricultural Library (NAL), Animal Welfare Information Center conducts a workshop titled ''Meeting the Information Requirements of the Animal Welfare Act''. The proposed registration from collects information from interested parties necessary to register them for the workshop. The information includes: workshop data preferences, signature, name, title, organization name, mailing address, phone and fax numbers and email address. The information will be collected using online and printed versions of the form. Also forms can be fax or mailed.

Need and Use of the Information: NAL will collect information to register participants, contact them regarding schedule changes, control the number of participants due to limited resources and training space, and compile and customize class materials to meet the needs of the participants. Failure to collect the information would prohibit the delivery of the workshop and significantly inhibit NAL's ability to provide up-to-date information on the requirements of the Animal Welfare Act.

Description of Respondents: Not-for-Profit Institutions; Business or Other for-profit; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 100.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 8.

Cooperative State Research, Education, and Extension Service

Title: Application Kit for Research and Extension Programs.

OMB Control Number: 0524–0039.

Summary of Collection: The United States Department of Agriculture (USDA), Cooperative State Research, Education, and Extension Service (CSREES) administers several competitive, peer-previewed research and extension programs, under which awards of a high-priority nature are made. These programs are authorized pursuant to the authorities contained in the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3101), the Smith-Lever Act, and a variety of other legislative authorities. Before grants can be awarded, certain information is required from applicants as part of an overall package. Because the proposals submitted are competitive in nature and necessitate review by peer panelists, it is particularly important that applicants provide the information in a standardized fashion to ensure equitable treatment for all. CSREES will collect information using forms CSREES 2002, 2003, 2004, 2005, 2006, 2007, and 2008 and 2010.

Need and Use of the Information: CSREES will collect the following information: Program Summary and Narrative, Credentials, Budget, Identification of Conflicts of Interest, and Collect of Environmental Impact Information. The information will reduce the potential for errors or omissions of important data essential in the proposal review and award process. The information will be used to respond to inquiries from Congress, other governmental agencies, and the grantee community.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Individuals or households; Federal Government; State, Local or Tribal Government.

Number of Respondents: 9,450.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 156,813.

Cooperative State Research, Education, and Extension Service

Title: Questionnaire for Potential Reviewers.

OMB Control Number: 0524–NEW.

Summary of Collection: The United States Department of Agriculture (USDA), Cooperative State Research, Education, and Extension Service (CSREES) administers several competitive, peer-reviewed research and extension programs, under which awards of a high-priority nature are made. These programs are authorized pursuant to the authorities contained in the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3101), the Smith-Lever Act, and a variety of other legislative authorities. CSREES receives approximately 6,000 research, education, and extension proposals per year, of which approximately 2,000 are awarded. The majority of these; proposals are subject to a rigorous peer-review process involving technical experts located worldwide. Given the highly technical nature of many of the proposals, the quality of the peer-review greatly depends on the appropriate matching of the proposal subject matter with the technical expertise of the reviewer. As a result, a single database of technical experts is an invaluable tool for CSREES in accomplishing a suitable marriage of proposal content with reviewer experts. CSREES is seeking clearance to conduct a survey in the form of a questionnaire sent to individuals who have the technical expertise. The survey will be done by email, hard copy or other appropriate mechanism.

Need and Use of the Information: CSREES will collect information to enable a program officer to perform searches for specific technical expertise and the expressed willingness to be a reviewer and will also allow a program officer to consider, for example, conflict-of-interest issues and a balanced composition of reviewers. This process enables the program officer to identify, in an expeditious and efficient manner, the most appropriate reviewers.

Description of Respondents: Individuals or households.

Number of Respondents: 75,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 12,500.

Foreign Agricultural Service

Title: CCC's Export Credit Guarantee program (GSA–102), Intermediate Credit Guarantee Program (GSM–103) Supplier Credit Guarantee Program (SCGP).

OMB Control Number: 0551–004.

Summary of Collection: The Commodity Credit Corporation (CCC) of the U.S. Department of Agriculture administers under 7 CFR Part 1493, the Export Credit Guarantee Program (GSM–102), the intermediate Export Credit program (GSM–103), and Supplier Credit Guarantee Program (SCGP). These programs provide guarantees to exporters in order to maintain and increase overseas importers ability to purchase U.S. agricultural goods. The Export Credit Guarantee Programs are designed to stimulate U.S. private sector financing of foreign purchases of U.S. agricultural commodities on credit terms. Since the Export Credit Guarantee Programs operate off commercial sales, the majority of the information required for program participation, including the guarantee application, evidence of export report, assignment notice, and filing of notices of default. The Foreign Agricultural Service (FAS) will collect information from the guarantee applications submitted by the participants by telephone, mail, or fax.

Need and Use of the Information: FAS will collect information from participating U.S. exporters in order to determine the exporters eligibility for program benefits. The information is also used in fulfilling CCC obligation under the issued payment guarantee. If the information were not collected CC would be unable to determine if export sales under the programs would be eligible for coverage or, if coverage conformed to program requirements.

Description of Respondents: Business or other for-profit.

Number of Respondents: 857.

Frequency of Responses: Record keeping, Reporting: On occasion.

Total Burden Hours: 11,415.

Foreign Agricultural Agency

Title: Emergency Relief from Duty-Free Imports of Perishable Products Under the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

OMB Control Number: 0551–0033.

Summary of Collection: The Andean Trade Preference Act (the Act) (19 U.S.C. 3201 *et seq.*) was signed into law on December 4, 1991 and expired December 4, 2001. Section 3104 of H.R. 3009, the ''Trade Act of 2002'' amended section 208(b) of the Act to extend the termination date to December 31, 2006, retroactive to December 4, 2001. The Act authorizes the President to provide duty-free treatment to imports from Bolivia, Colombia, Ecuador, and Peru, except for specifically excluded products. Section 204(d) provides, in part, that a petition for emergency import relief maybe filed with the Secretary of Agriculture at the same time a petition for import relief is filed with the United States International Trade Commission (ITC). Emergency import relief is limited to restoration of general tariffs during the period of the ITC's investigation.

Need and Use of the Information: The Foreign Agricultural Service will collect the following information to be included in a petition: a description of the imported perishable product concerned; country of origin of imports data indicating increased imports are a substantial cause of serious injury to the domestic industry producing a like or directly competitive product; evidence of serious injury; and a statement indicating why emergency action would be warranted. The information collected provides essential data for the Secretary regarding specific market conditions with respect to the industry requesting emergency relief.

Description of Respondents: Business or other for-profit; Farms; Individuals or households.

Number of Respondents: 2.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 46.

Farm Service Agency

Title: Request for Direct Loan Assistance.

OMB Control Number: 0560–0167.

Summary of Collection: Section 302 (7 U.S.C. 1922) of the Consolidated Farm and Rural Development Act (CONACT) provides that the Secretary is authorized to make and insure loans under this title to farmers and ranchers. The Farm Service Agency (FSA) has issued regulations through the **Federal Register** process to implement the making and servicing of direct loans in chapter 18 of the Code of Federal Regulations. These regulations establish the information collection necessary for FSA to make and service direct loans. The loans include Operating, Farm Ownership. Soil and Water, Softwood Timber Production, Emergency, Economic Emergency, Economic Opportunity, Recreation, and Rural Housing loans for farm service building. FSA will collect information using form FSA 410–1.

Need and Use of the Information: FSA will collect information to determine if the applicant/borrower meets the eligibility requirements established in the CONACT. FSA will also collect the following information: name, address, telephone number; social security number; type of farming operation; information relating to the applicant's credit history; the source and amount of nonfarm income, and a financial statement. If the information were not collected FSA would not be able to make an accurate eligibility and financial feasibility determination on respondents' request for new loans and loan servicing actions.

Description of Respondents: Farm; Federal Government; Business or other-for-profit; Individuals or household.

Number of Respondents: 48,321.

Frequency of Responses: Reporting: Other (when applying for benefits).

Total Burden Hours: 96,642.

Rural Utilities Service

Title: Use of Consultants Funded by Borrowers, 7 CFR 1789.

OMB Control Number: 0572–0115.

Summary of Collection: The Rural Utilities Service (RUS) is a credit agency of the Department of Agriculture that makes mortgage loans and loan guarantees to finance electric, telecommunications, and water and waste facilities in rural areas. The loan programs are managed in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.,* as amended, and as prescribed by Office of Management and Budget Circular A–129, Policies for Federal Credit programs and Non-Tax Receivable, which states that agencies must, based on a review of a loan application, determine that an applicant complies with statutory, regulatory, and administrative eligibility requirements for loan assistance. RUS has the authority to use consultants voluntarily funded by borrowers for financial, legal, engineering, and other technical services. However, all RUS borrowers are eligible to fund consultant services but are not required to fund consultants.

Need and Use of the Information: RUS will collect information to determine whether it is appropriate to use a consultant voluntarily funded by the borrower to expedite a particular borrower application. If the information were not submitted, RUS would be unable to determine if using a consultant would accelerate the specific application process.

Description of Respondents: Not-for-profit institutions; Business or other for-profits.

Number of Respondents: 6.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 12.

Rural Utilities Service

Title: Broadband pilot grant program.

OMB Control Number: 0572–0127.

Summary of Collection: The Rural Utilities Service has the responsibility to deploy a Broadband Pilot Grant Program to provide broadband infrastructure to rural, lower income communities on a ''community-oriented connectivity'' basis. This service is intended to promote economic development and provide enhanced educational and health care opportunities.

Need and Use of the Information: RUS' will provide financial assistance in the form of grants to eligible entities to provide broadband transmission service in rural communities where such service does not currently exist. RUS will use the information to determine that funds needed to complete the project are adequate based on the amount requested.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 300.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 48,010.

Rural Housing Service

Title: 7 CFR 3550—Direct Single Family Housing Loan and Grant Program, HB–1–3550, HB–2–3550.

OMB Control Number: 0575–0172.

Summary of Collection: The Rural Housing Service (RHS) is a credit agency for rural housing and community development within the Rural Development mission area of the Department of Agriculture. Section 501 of Title V of the Housing Act of 1949, as amended, authorizes the Secretary of Agriculture to administer such programs and to prescribe regulations to ensure that these loans and grants provided with Federal funds are made to eligible applicants for authorized purposes, and that subsequent servicing an benefits provided to borrowers are consistent with the authorizing statute. RHS offers a supervised credit program to extend financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings, which will provide modest, decent, safe, and sanitary housing to eligible individuals living in rural areas. To assist individuals in obtaining affordable housing, a borrower's house payment may be subsidized to an interest rate as low as 1%. The information requested by RHS is vital to be able to process applications for RHS assistance and make prudent credit and program decisions. RHS will collect information using several forms.

Need and Use of the Information: RHS will collect information to verify program eligibility requirements; continued eligibility requirements for borrower assistance; servicing of loans; eligibility for special servicing assistance such as: payment subsidies, moratorium (stop) on payments, delinquency workout agreements; liquidation of loans; and, debt settlement. The information is used to ensure that the direct Single Family Housing Programs are administered in a manner consistent with legislative and administrative requirements. Without the information RHS would be unable to determine if a borrower would qualify for services or if assistance has been granted to which the customer would not be eligible under current regulations and statutes.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 500,000.

Frequency of Responses: Reporting; On occasion; Annually.

Total Burden Hours: 513,872.

Animal and Plant Health Inspection Service

Title: Animal Welfare Licensing and inspection Requirements for Dealers of Dogs Intended for Hunting, Breeding, or Security Purpose.

OMB Control Number: 0579–0169.

Summary of Collection: The Laboratory Animal Welfare Act (AWA) P.L. 890544 enacted August 24, 1966, requires the U.S. Department of Agriculture (USDA) to regulate the humane care and handling of dogs, cats, guinea pigs, hamster, rabbits, and nonhuman primates.

The legislation was the result of extensive demand by organized animal welfare groups and private citizens requesting a Federal law covering the transportation, care, and handling of laboratory animals. As part of these standards, the Animal and Plant health Inspection Service (APHIS) must regulate dealers of dogs used for hunting, security, or breeding purposes. APHIS will collect information using several forms.

Need and Use of the Information: APHIS will collect information (1) to insure that animals intended for use in research facilities or exhibition purposes or for use as pets are provided humane care and treatment; (2) to assure the humane treatment of animals during transportation in commerce; and (3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen. The information collected will help determine whether a reporting facility is following professionally acceptable standards governing care, treatment, and use of animals. Without the information it would be impossible to enforce the AWA program, perform compliance investigations, or initiate proceedings against violators.

Description of Respondents: Business or other for-profit.

Number of Respondents: 12.

Frequency of Responses: Recordkeeping; Reporting; On occasion.

Total Burden Hours: 16.

Agricultural Marketing Service

Title: Lamb Promotion, Research and Information Program: Rules and Regulations.

OMB Control Number: 0581–0203.

Summary of Collection: The agricultural Marketing Service (AMS) has the responsibility for the national commodity research and promotion programs. The authority for the Lamb Promotion, Research, and Information Order is established under the Commodity Promotion, Research, and Information Act of 1996. These programs carry out projects relating to research, consumer information advertising, producer information, market development, and product research with the goal of maintaining and expanding their existing markets and uses and strengthening their position in the marketplace.

Need and Use of the Information: The Certification of Non-Producer status Form is used by market agencies to certify that certain transactions are exempt from assessments and were resold not later than 10 days from the date on which the agency acquired ownership and no additional assessment was due. The information required by this form is not available from any other source because it relates specifically to individual lamb producers, feeders, seedstock producers, first handlers and exporters.

Description of Respondents: Farms; individuals or households; Business or other for-profit.

Number of Respondents: 3,318.

Frequency of Responses: Recordkeeping; Reporting; Monthly.

Total Burden Hours: 1,195.

Food Safety and Inspection Service

Title: Survey of Egg, Meat, and Poultry Plants: Current Practices and Technologies for Controlling Pathogens in Manufacturing Processes.

OMB Control Number: 0583–NEW.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et. seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et. seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031–1056). These statutes mandate that FSIS protect the public by ensuring that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS will conduct surveys of egg, meat, and poultry plants. The survey will provide accurate and up-to-date information about current practices and technologies used in the egg, meat, and poultry industries to control and reduce pathogens in their manufacturing processes.

Need and Use of the Information: FSIS will collect information to establish an accurate, quantitative baseline for pathogen control, sanitation, testing, training, and other practices used by egg, meat, and poultry plants. FSIS will also use the information collected to determine whether specific regulatory actions are needed, and if so, the types of regulatory actions that will achieve desired objectives in the most efficient and effective manner. Without the information FSIS would have insufficient quantitative information about practices and technologies used in the eggs, meat, and poultry industries to control or reduce pathogens in manufacturing processes.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,309.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 741.7.

Food and Nutrition Service

Title: 7 CFR Part 215—Special Milk Program for Children.

OMB Control Number: 0584–0005.

Summary of Collection: Section 3 of the Child Nutrition Act (CNA) of 1966 (P.L. 89–642, as amended; 42 U.S.C. 1772) authorizes the Special Milk Program (SMP) for Children. The SMP is a food assistance program whose objective is to encourage children to consume milk. The program provides the availability of federally subsidized milk, which is delivered through nonprofit milk service operations run by schools and institutions. Such organizations may operate the SMP in either a pricing or nonpricing mode. Needy children in organizations that operate the SMP in its pricing mode may receive their milk free if the sponsoring organization elects to serve free milk. Although the responsibility for administering the SMP at the Federal level has been assigned to USDA, the enabling legislation requires that SMP operations within the states be administered by State Agencies (SAs).

Need and Use of the Information: The Food and Nutrition Service (FNS) will collect information to compute the amount of Federal SMP funds due the SA under the performance-funding formula; analyze and evaluate the results of program operation within each state and nationwide; respond to data requests from the Congress, OMB, and advocacy groups and the general public; develop budget projections of the amount of Federal funds needed to pay SMP program benefits; and regulate the flow of Federal funds to SA. Without this information FNS would not be able to evaluate program operations.

Description of Respondents: State, Local, and Tribal Government; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 15,199.

Frequency of Responses: Recordkeeping; Reporting: Monthly; Annually.

Total Burden Hours: 702,767.

Food and Nutrition Service

Title: Food Stamp Forms: Applications, Periodic Reporting, Notices.

OMB Control Number: 0584–0064.

Summary of Collection: The Food Stamp Act of 1977 (the Act) establishes a program whereby needy households may apply for and receive food stamp benefits. The Act requires certain reporting and recordkeeping requirements in administering the program. The Act specifies national eligibility standards and impose certain administrative requirements on State agencies in administering the program. Information must be collected from households to assure that they are eligible for the program and that they receive the correct amount of food stamp benefits. Information collected is limited to that necessary for the administration and enforcement of the Food Stamp Program. The Food and Nutrition Service (FNS) will use an application to collect information. Fours laws modify or add additional information collected, reporting, and recordkeeping requirement associated with the application and certification of households for the Food Stamps Program: The four laws are: Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), dated 8/22/96; Public Law 104–208, the Omnibus Consolidated Appropriations Act (OCAA), dated 9/30/96; Public Law 105–33, the Balanced Budget Act (BBA), dated August 5, 1997; and Public Law 105–185, the Agricultural Research, Extension and Education Reform Act of 1998 (AREERA), dated June 23, 1998. The various provisions of these laws are implemented at 7 CFR Part 272, 273, and 274.

Need and Use of the Information: FNS will collect information to determine the eligibility of households for the food stamp program and to determine the correct benefit levels for eligible households. The social security number will be used to check the identity of household members, to prevent duplicate participation, to make mass food stamp changes, and to verify information. If information is not collected to certify households in accordance with the Act or changing the frequency of information or reporting requirements as they relate to the application, certification, and continue eligibility of households would result in a direct violation of the Act and its implementing regulations. Further, benefits could be overissued or underissued for a long period of time if necessary information is not collected or actions are not taken timely.

Description of Respondents: State, Local, and Tribal Government; Individuals or household.

Number of Respondents: 18,131,799.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Monthly; Quarterly.

Total Burden Hours: 28,333,895.

Farm Service Agency

Title: Brokerage Agreement for the Transportation of USDA Commodities.

OMB Control Number: 0560–NEW.

Summary of Collection: 49 U.S.C. 13102(2), 13712, and 49 CFR Chapter 10, Part 1090–1099, authorizes the Export Operations Division (EOD) to collect information to determine Broker compliance with KCCO requirements and to determine the eligibility of Brokers to haul agricultural products for the United States Department of Agriculture (USDA). Brokers must complete the Brokerage Agreement for the transportation of USDA commodities. The Brokerage Agreement is used to establish the transportation service needs of the USDA, Farm Service Agency (FSA), Kansas City Commodity Office (KCCO), operating as Commodity Credit Corporation (CCC), for the brokered movement of its freight.

Need and Use of the Information: FSA will collect information to ensure that the applicant has both the willingness and the capability to meet the needs of KCCO and to establish the rules for which the broker can expect corporation. Without the information, KCCO could not meet program requirements.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 113.

Frequency of Responses: Reporting: Other (Once).

Total Burden Hours: 113.

Sondra Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 02–31570 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–092–1]

Aventis CropScience; Availability of Petition and Environmental Assessment for Determination of Nonregulated Status for Cotton Genetically Engineered for Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Aventis CropScience seeking a determination of nonregulated status for cotton designated as Transformation Event LLCotton25, which has been genetically engineered for tolerance to the herbicide glufosinate. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether this cotton presents a plant pest risk. We are also making available for public comment an environmental assessment for the proposed determination of nonregulated status.

DATES: We will consider all comments that we receive on or before February 14, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/ commercial delivery, please send four copies of your comments (an original and three copies) to Docket No. 02–092–l, Regulatory Analysis and Development, PPD, APHIS, Suite 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 02–092–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–092–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Susan Koehler, Biotechnology Regulatory Services, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–4886. To obtain a copy of the petition or the environmental assessment, contact Ms. Kay Peterson at (301) 734–4885; e-mail: *Kay.Peterson@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

On February 12, 2002, APHIS received a petition (APHIS Petition No. 02–042–01p) from Aventis CropScience (Aventis) of Research Triangle Park, NC, requesting a determination of nonregulated status under 7 CFR part 340 for cotton (*Gossypium hirsutum* L.) designated as Transformation Event LLCotton25 (LLCotton25), which has been genetically engineered for tolerance to the herbicide glufosinate. The Aventis petition states that the subject cotton should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, LLCotton25 has been genetically engineered to contain a stably integrated *bar* gene isolated from *Streptomyces* *hygroscopicus,* strain ATCC21705. The *bar* gene encodes phosphinothricin-N-acetyltransferase (PAT), and the PAT enzyme catalyzes the conversion of L-phosphinothricin, the active ingredient in glufosinate, to an inactive form, thus conferring resistance to the herbicide. Expression of the added genes is controlled in part by gene sequences from the plant pathogens cauliflower mosaic virus and *Agrobacterium tumefaciens. Agrobacterium*-mediated gene transfer was used to transfer the added genes into the recipient Coker 312 cotton variety.

LLCotton25 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. This cotton has been field tested since 1999 in the United States under APHIS notifications. In the process of reviewing the notifications for field trials of the subject cotton, APHIS determined that the vectors and other elements were disarmed and that the trials, which were conducted under conditions of reproductive and physical containment or isolation, would not present a risk of plant pest introduction or dissemination.

In § 403 of the Plant Protection Act (7 U.S.C. 7701–7772), ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing. APHIS views this definition very broadly. The definition covers direct or indirect injury, disease, or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including herbicides, be registered prior to distribution or sale, unless exempt by EPA regulation. In cases in which genetically modified plants allow for a new use of a pesticide or involve a different use pattern for the pesticide, EPA must approve the new or different use. Accordingly, Aventis has submitted a pesticide petition to EPA to expand the registration of glufosinate to include use on LLCotton25.

When the use of the pesticide on the genetically modified plant would result in an increase in the residues in a food or feed crop for which the pesticide is currently registered, or in new residues in a crop for which the pesticide is not currently registered, establishment of a new tolerance or a revision of the existing tolerance would be required. Residue tolerances for pesticides are established by EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended (21 U.S.C. 301 *et seq.*), and the Food and Drug Administration (FDA) enforces tolerances set by EPA under the FFDCA.

FDA published a statement of policy on foods derived from new plant varieties in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). The FDA statement of policy includes a discussion of FDA's authority for ensuring food safety under the FFDCA, and provides guidance to industry on the scientific considerations associated with the development of foods derived from new plant varieties, including those plants developed through the techniques of genetic engineering. The petitioner has begun consultation with FDA on the subject cotton.

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for determination of nonregulated status from interested persons for a period of 60 days from the date of this notice. We are also soliciting written comments from interested persons on the environmental assessment (EA) prepared to provide the public with documentation of APHIS' review and analysis of any potential environmental impacts and plant pest risk associated with a proposed determination of nonregulated status for Aventis' LLCotton25.

The EA was prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). The petition and the environmental assessment and any comments received are available for public review, and copies of the petition and the environmental assessment may be ordered (see the **FOR FURTHER INFORMATION CONTACT** section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. After reviewing and evaluating the comments on the petition and the environmental assessment and other data and information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of Aventis' herbicide-tolerant LLCotton25 and the availability of APHIS' written decision.

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

Done in Washington, DC, this 10th day of December 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–31567 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–102–1]

Draft Guideline on Testing for the Detection of Mycoplasma Contamination

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: A draft guideline titled ''Testing for the Detection of Mycoplasma Contamination'' has been developed by the International Cooperation on Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). The draft guideline provides procedures for the testing of some veterinary biologics to detect mycoplasma contamination. Since the draft guideline applies to veterinary biological products regulated by the Animal and Plant Health Inspection Service under the Virus-Serum-Toxin Act, we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

DATES: We will consider all comments on the draft guideline that we receive on or before February 14, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–102–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–102–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–102–1'' on the subject line.

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

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

You may request a copy of the draft guideline ''Testing for the Detection of Mycoplasma Contamination'' by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. The draft guideline is also available on the Internet at *http://www.aphis.usda.gov/vs/cvb/lpd/notices*.

FOR FURTHER INFORMATION CONTACT: For information regarding VICH, contact Dr. Richard E. Hill, Director, Center for Veterinary Biologics-Licensing and Policy Development, VS, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010; (515) 232–5785. For information regarding the draft guideline ''Testing for the Detection of Mycoplasma Contamination,'' contact Dr. Donna M. Gatewood at the same address and telephone number.

SUPPLEMENTARY INFORMATION: The International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) brings together the regulatory authorities of the European Union, Japan, and the United States and representatives from the animal health industry in the three regions. The purpose of VICH is to harmonize technical requirements for veterinary products (both drugs and biologics). Regulatory authorities and industry experts from Australia and New Zealand participate as observers. The VICH initiative is conducted under the auspices of the International Office of Epizootics. The World Federation of the Animal Health Industry (COMISA, the Confederation Mondiale de L'Industrie de la Sante Animale) provides the secretarial support for VICH activities. The U.S. Government is represented in VICH by the Food and Drug Administration (FDA) and the Animal and Plant Health Inspection Service (APHIS). The FDA provides expertise regarding veterinary drugs, while APHIS fills a corresponding role for veterinary biological products. As VICH members, FDA and APHIS participate in efforts to enhance harmonization and have expressed their commitment to seeking scientifically based harmonized technical requirements for the development of veterinary drugs and biological products. One of the goals of harmonization is to identify and reduce the differences in technical requirements for veterinary drugs and biologics among regulatory agencies in different countries.

This notice informs the public that a draft document, ''Testing for the Detection of Mycoplasma Contamination'' (VICH Topic GL34), has been made available for comments by the VICH Steering Committee. The draft guideline is intended to provide an international testing standard for the detection of mycoplasma contamination in veterinary biologics. Because the draft guideline applies to some veterinary biological products regulated by APHIS under the Virus-Serum-Toxin Act, we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

The draft document reflects current APHIS thinking on testing veterinary biologics for the detection of mycoplasma contamination. In accordance with the VICH process, once a final draft of ''Testing for the Detection of Mycoplasma Contamination'' has been approved, the guideline will be recommended for adoption by the regulatory bodies of the European Union, Japan, and the United States. As with all VICH documents, the final guideline will not create or confer any rights for or on any person and will not operate to bind APHIS or the public. Further, a VICH guideline specifically provides for the use of alternative approaches if those approaches are proven to be equivalent by scientifically accepted criteria.

Ultimately, APHIS intends to consider the VICH Steering Committee's final guidance document for use by U.S. veterinary biologics licensees, permittees, and applicants. In addition, APHIS will consider its use as a basis for testing veterinary biologics for mycoplasma contamination under 9 CFR 113.28. APHIS may also use the final guidance document as the basis for proposed additions or amendments to its regulations in 9 CFR chapter I, subchapter E (Viruses, Serums, Toxins, and Analogous Products; Organisms and Vectors). Because we anticipate that applicable provisions of the final version of ''Testing for the Detection of Mycoplasma Contamination'' may be introduced into APHIS' veterinary biologics regulatory program in the future, we encourage your comments on the draft version.

Authority: 21 U.S.C. 151 *et seq.*

Done in Washington, DC, this 10th day of December 2002 .

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–31568 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Reinstatement, Without Change, of PreviouslyApproved information Collection That Has Expired for Stewardship Incentive Program

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the reinstatement, without change, of a previously approved, but now expired, information collection required for participation of non-industrial private forest owners in the State and Private Forestry Stewardship Incentive Program. The collected information identifies (1) the Stewardship Incentive Program assignment of payment, (2) Internal Revenue Service income reporting requirements for participants, and (3) the participants' delegated power of attorney.

DATES: Comments must be received in writing on or before February 14, 2003.

ADDRESSES: Written comments concerning this notice should be addressed to Forest Service, USDA, Attn: Stewardship Coordinator, Cooperative Forestry Staff, Mail Stop

1123, 1400 Independence Avenue, SW., Washington, DC 20250–1123. Comments may also be sent via email to *hbrockman@fs.fed.us,* or via facsimile to (202) 205–1271.

The public may inspect comments received at the offices of the Cooperative Forestry Staff, Sidney Yates Building, 4th Floor SE, 201 14th Street, SW., Washington, DC 20250, during normal business hours. Visitors are encouraged to call ahead to (202) 205–1694 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Hal Brockman, Cooperative Forestry Staff, (202) 205–1694; or Susan Stein, Cooperative Forestry Staff, (202) 205–0837.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Forest Service is seeking a reinstatement, without change, of a previously approved, but now expired, information collection authorized under Office of Management and Budget (OMB) Control Number 0596–0120 and required for participation of non-industrial private forest owners in the State and Private Forestry Stewardship Incentive Program. Several Forest Service information collection forms are approved under this authorization number: Stewardship Incentive Program (SIP)–36, Assignment of Payment; SIP–211, Power of Attorney; SIP–211–1, Power of Attorney for Husband and Wife; and SIP–502, Payment Limitation Review. The collected information is used to facilitate the participation of non-industrial private forest owners in the State and Private Forestry Stewardship Incentive Program.

An additional form, AD–245, SIP Request for Cost-Shares, also is used when applying for cost-share funds. A request for extension of approval for this information collection is being requested by the Farm Service Agency(OMB 0560–0082), which works cooperatively with the Forest Service to administer the Stewardship Incentive Program.

Data gathered in this information collection are not available from other sources.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: SIP–36, Assignment of Payment.

OMB Number: 0596–0120.

Expiration Date of Approval: July 31, 2002.

Type of request: Reinstatement of a previously approved information collection that has expired.

Abstract: The non-industrial private forest landowner completes SIP–36 to assign a cost-share payment to a third party. The information requested includes the payment amount assigned and the names, addresses, and signatures of assignor and assignee.

Estimate of Annual Burden: 10 minutes.

Types of Respondents: Non-industrial private forest owners.

Estimated Annual Number of Respondents: 1,000.

Estimated Annual Number of Responses per Respondent: 1 per form.

Estimated Total Annual Burden on Respondents: 167 hours.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: SIP–211, Power of Attorney.

OMB Number: 0596–0120.

Expiration Date of Approval: July 31, 2002.

Type of request: Reinstatement of a previously approved information collection that has expired.

Abstract: The non-industrial private forest landowner completes SIP–211 to appoint power of attorney for the landowner. The landowner indicates in this form whether power of attorney is being granted for (1) all actions; (2) the signing of an application; (3) the receiving of payments; (4) pledge of agreements; (5) the making of reports; or (6) other. It is signed by the landowner and witnesses.

Estimate of Annual Burden: 5 minutes.

Types of Respondents: Non-industrial private forest owners.

Estimated Annual Number of Respondents: 1,000.

Estimated Annual Number of Responses per Respondent: 1 per form.

Estimated Total Annual Burden on Respondents: 83 hours.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: SIP–211–1, Power of Attorney for Husband and Wife.

OMB Number: 0596–0120.

Expiration Date of Approval: July 31, 2002.

Type of request: Reinstatement of a previously approved information collection that has expired.

Abstract: Participants who are husband and wife and who wish to assign each other power of attorney complete Form SIP–211–1. It requires the husband and wife to print and sign their names on the form.

Estimate of Annual Burden: 5 minutes.

Types of Respondents: Non-industrial private forest owners.

Estimated Annual Number of Respondents: 1,000.

Estimated Annual Number of Responses per Respondent: 1 per form.

Estimated Total Annual Burden on Respondents: 83 hours.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: SIP–502, Payment Limitation Review.

OMB Number: 0596–0120.

Expiration Date of Approval: July 31, 2002.

Type of request: Reinstatement of a previously approved information collection that has expired.

Abstract: To ensure they have not exceeded the cost-share payment limit for a fiscal year and also to meet Internal Revenue Service income reporting requirements, non-industrial private forest owners complete SIP-502. A landowner is not allowed to receive more than $10,000 in SIP cost-share payments in a single fiscal year. Program participants provide their name and address, entity identification number, and date entity formed. They also check off the type of entity (*e.g.*, individual, irrevocable trust, revocable trust, corporation, limited partnership, general partnership, joint venture, estate, or other). Participants also list all stockholders, members, heirs, or beneficiaries having an interest in the entity.

Estimate of Annual Burden: 25 minutes.

Types of Respondents: Non-industrial private forest owners.

Estimated Annual Number of Respondents: 1,000.

Estimated Annual Number of Responses per Respondent: 1 per form.

Estimated Total Annual Burden on Respondents: 417 hours.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the 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 the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: December 4, 2002.

Joel D. Holtrop,

Deputy Chief, State and Private Forestry.

[FR Doc. 02–31571 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Trinity County Resource Advisory Committee

AGENCY: Forest Service, USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: The Trinity County Resource Advisory Committee (RAC) will meet on January 6, 2003, in Weaverville, California. The purpose of the meeting is to discuss the selection of title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on January 6, 2003, from 6:30 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Trinity County Office of Education Conference Room, 201 Memorial Drive, Weaverville, California.

FOR FURTHER INFORMATION CONTACT: Ann Garland, Designated Federal Official, USDA, Six Rivers National Forest, P.O. Box 68, Willow Creek, CA 95573. Phone: (530) 629–2118. E-mail: *agarland@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The committee will discuss the environmental analysis process and project monitoring, fuels projects, and the strategy for future projects. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: December 9, 2002.

Bud Zangger,

Acting Forest Supervisor.

[FR Doc. 02–31563 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Del Norte County Resource Advisory Committee (RAC) will meet on January 7, 2003, in Crescent City, California. The purpose of the meeting is to discuss the selection of title II projects under Pub. L. 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on January 7, 2003, from 6 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Del Norte County Unified School District Board Room, 301, West Washington Boulevard, Crescent City, California.

FOR FURTHER INFORMATION CONTACT: Laura Chapman, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501. Phone: (707) 441–3549. E-mail: *lchapman@fs.fed.us*.

SUPPLEMENTARY INFORMATION: The committee will discuss and prioritize project proposals submitted by the public and Six Rivers National Forest. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: December 9, 2002.

Bud Zangger,

Acting Forest Supervisor.

[FR Doc. 02–31564 Filed 12–13–02; 8:45 am]

BILLING CODE 3416–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

RIN 0596–AB99

National Environmental Policy Act Documentation Needed for Fire Management Activities; Categorical Exclusions

AGENCY: Forest Service, USDA, and Department of the Interior.

ACTION: Notice of proposed National Environmental Policy Act implementing procedures; request for comment.

SUMMARY: The Department of Agriculture, Forest Service and Department of the Interior give notice of, and request comment on, their proposal to revise their procedures for implementing the National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations. These revisions are being made to Forest Service Handbook 1909.15, chapter 30, and Department of the Interior Manual 516 DM, chapter 2, Appendix 1, which describe categorical exclusions, *i.e.*, categories of actions that will not result in significant impacts on the environment and therefore normally do not require further analysis in either an environmental assessment or an environmental impact statement. The proposal would add two such categories of actions to the agencies' NEPA procedures: (1) Hazardous fuels reduction activities (such as thinning overstocked stands and brush); and (2) activities for rehabilitating and stabilizing lands and infrastructure (such as reseeding) impacted by wildland fires or fire suppression. The Departments reviewed over 3,000 hazardous fuel reduction and rehabilitation/stabilization projects and concluded that these categories of actions do not individually or cumulatively result in significant effects on the human environment. The intended effect of these two categorical exclusions is to facilitate efficient planning and timely decisions concerning treatment of hazardous fuels and stabilization and rehabilitation of areas so as to reduce risks to communities and the environment caused by severe fires.

The hazardous fuels reduction categorical exclusion will only apply to projects identified in a manner consistent with the collaborative framework in the 10-Year Comprehensive Strategy Implementation Plan. Moreover, these

hazardous fuels reduction activities: (1) Would not be conducted in wilderness areas or where they would impair the suitability of wilderness study areas for preservation for wilderness; (2) would not include the use of herbicides or pesticides; (3) would not involve the construction of new permanent roads or other infrastructure, and (4) would not include activities such as timber sales that do not have hazardous fuels reduction as their primary purpose. Activities carried out under the rehabilitation and stabilization categorical exclusion would only take place after a wildfire. These activities cannot use herbicides or pesticides, nor include the construction of new permanent roads or other infrastructure. Activities conducted under either of the proposed categorical exclusions must be consistent with agency and Departmental procedures, land and resource management plans, and must comply with all applicable Federal, State, and tribal laws for protection of the environment (*e.g.*, compliance with State standards for air quality). These categorical exclusions will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites.

Hazardous fuels reduction and rehabilitation/stabilization activities will help reach the goal of restoring fire-adapted ecosystems, which will benefit many species and their habitat. Public comment is invited and will be considered in development of the final procedures.

DATES: Comments must be received in writing by January 15, 2003.

ADDRESSES: Mail written comments to: Healthy Forests Initiative, USDA FS Content Analysis Team, P.O. Box 221150, Salt Lake City, Utah 84116.

Comments also may be submitted via facsimile to (801) 517–1015 or by e-mail to *healthyforests@fs.fed.us.* If comments are sent via facsimile or e-mail, the public is requested not to send duplicate written comments via regular mail.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection. Persons wishing to inspect the comments need to call (801) 517–1020 to facilitate an appointment.

FOR FURTHER INFORMATION CONTACT: Dave Sire, USDA Forest Service, Ecosystem Management Coordination, (202) 205–2935, or Willie Taylor, Department of the Interior, Office of Environmental Policy and Compliance, (202) 208–3891. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 4 p.m., Eastern Standard Time, Monday through Friday. Additional information and analysis can be found under the Healthy Forests Initiative at *http://www.fs.fed.us/projects/HFI.shtml.*

SUPPLEMENTARY INFORMATION:

Overview

On August 22, 2002, President Bush established the Healthy Forests Initiative, directing the Departments of Agriculture and Interior and the Council on Environmental Quality to improve regulatory processes to ensure more timely decisions, greater efficiency, and better results in reducing the risk of catastrophic wildfires by restoring forest health.

In response to this direction, the Departments of Agriculture and the Interior propose two new categorical exclusions. The first, addressing hazardous fuels reduction projects, is intended to better protect lives, communities, and ecosystems from the risk of high-intensity wildland fire. The second, addressing rehabilitation and stabilization projects, is intended to better restore natural resources and infrastructure after a fire. These two proposed categorical exclusions will increase the ability of the agencies to expeditiously reduce hazardous fuels, thereby lowering the intensity and rapid spread of wildfires, and facilitate the agency's abilities to rapidly rehabilitate and stabilize burned areas to protect watersheds and resources.

Why Do the Departments Need the Proposed Categorical Exclusions?

As stated in the Administration's ''Healthy Forests: An Initiative for Wildfire Prevention and Stronger Communities'', there are 190 million acres of Federal forests and rangelands in the 48 contiguous states at risk of severe wildland fires that threaten human safety, property, and ecosystem integrity. Drought conditions coupled with years of fuel buildup combine to make these lands vulnerable to intense, fast-moving fires that often are far more destructive than those in prior years. In the aftermath of wildland fires, timely rehabilitation and stabilization projects are critical to preventing additional threats to communities and ecosystems, such as soil erosion, mudslides, invasive species, and deteriorating watersheds.

The 2000 fire season, for example, was one of the worst in 50 years. Approximately 123,000 fires burned more than 8.4 million acres. The total acreage burned was more than twice the 10-year national average. At times, nearly 30,000 personnel were on the fire lines, including military and firefighters from other countries. More than $2 billion from Federal accounts was spent suppressing wildland fires. This amount does not include State and local firefighting suppression costs, direct and indirect economic losses to communities, loss of property, and damage to ecosystems.

The trend since 2000 has continued. During 2002, catastrophic wildfires continued to make national headlines, burning over 7.1 million acres. According to the General Accounting Office 1999 report, ''Western National Forests—A Cohesive Strategy Is Needed to Address Catastrophic Wildfire Threats,'' wildfires have increasingly become large, intense, and catastrophic in the currently denser stands of the national forests in the interior West. For example, the 2002 Rodeo Fire in Arizona grew from 800 to 46,000 acres in one day. In addition, Oregon and Colorado experienced unusually large fires, with Colorado's Hayman fire being five times larger than the previous largest recorded fire in that State's history.

Congress and the Executive Branch identified coordinated and strategic fuels treatment as necessary to undo a century of fuels buildup. In August 2000, the Secretaries of Agriculture and the Interior began an effort designed to reduce fire impacts on communities and ensure effective firefighting capacity in the future. The result was the National Fire Plan, which Congress later supported through appropriations language in the fiscal year (FY) 2001 appropriations act for the Department of the Interior and related agencies. As part of its direction, Congress mandated the creation of a coordinated national 10-year comprehensive strategy. The resulting strategy, ''A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy,'' completed in August of 2001, was developed by Federal, State, tribal, and local government and non-governmental representatives. In May of 2002, these same parties completed the Implementation Plan for the 10-Year Comprehensive Strategy. The Implementation Plan establishes a performance-based framework for improving the management of wildland fire and hazardous fuels; meeting the need for ecosystem restoration and rehabilitation; implementing protective measures to reduce the risk of wildland fire to communities and environments and monitoring progress over time.

The unprecedented collaboration among Federal, State, tribal and local governments, citizens and groups reached a powerful consensus that immediate action was needed. Thus, the 10-Year Comprehensive Strategy Implementation Plan set four primary goals: (1) Improve fire prevention and suppression; (2) reduce hazardous fuels; (3) restore fire-adapted ecosystems; and (4) promote community assistance. For each goal, the 10-Year Comprehensive Strategy Implementation Plan identifies specific outcomes, performance measures, and implementation tasks that guide agency actions and measure performance. Moreover, a key implementation task under Goal Two of the 10-Year Comprehensive Strategy Implementation Plan requires agencies to assess regulatory processes governing hazardous fuels projects and activities done in conformance with the 10-Year Comprehensive Strategy and Implementation Plan and to identify measures to improve the timeliness of decisions. The proposed categorical exclusions respond to this task and the goal of restoring fire-adapted ecosystems under Goal Three of the 10-Year Comprehensive Strategy Implementation Plan.

The proposed categorical exclusions will provide the departments with identical management tools that will improve consistency and cooperation among Federal agencies in the implementation of hazardous fuels reduction, stabilization, and rehabilitation projects. This improved cooperation will, in turn, foster more effective collaboration among Federal, State, tribal, and local governments and interested stakeholders consistent with the 10-Year Comprehensive Strategy Implementation Plan.

What Is a Categorical Exclusion?

The National Environmental Policy Act (NEPA), and accompanying Council on Environmental Quality (CEQ) regulations (40 CFR 1500), require that each agency establish specific criteria for and identification of three types of actions: (1) Those that require preparation of an environmental impact statement; (2) those that require the preparation of an environmental assessment; and (3) those that are categorically excluded from further analysis and documentation in an environmental assessment or an environmental impact statement. Actions qualify for (3), a categorical exclusion, if they do not individually or cumulatively have a significant impact on the human environment and warrant no further analysis and documentation in an environmental assessment or an environmental impact statement. Agencies must, however, recognize the exceptions to the application of a categorical exclusion that extraordinary circumstances may require.

A categorical exclusion is not an exemption from the requirements of NEPA. Categorical exclusions are an essential part of NEPA that provide a categorical determination that the activities do not result in significant impacts, eliminating the need for individual analyses and lengthier documentation. CEQ regulations at 40 CFR 1500.4(p), 1507.3 and 1508.4 direct agencies to use categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and do not require the preparation of an environmental assessment or an environmental impact statement, thereby reducing excessive paperwork.

Current United States Department of Agriculture (USDA) Forest Service procedures for complying with and implementing NEPA are set out in Forest Service Handbook (FSH) 1909.15, Chapter 30, which establishes two types of categorical exclusions. The first, set out at section 31.1, consists of categories of actions that are so routine and limited that a record is not required. The second type, set out at section 31.2, consists of categories of actions that require documentation in a Decision Memo that explains the rationale for applying a categorical exclusion and not preparing an environmental assessment or an environmental impact statement. The two categorical exclusions proposed in this notice would fall within the Forest Service's second type of categorical exclusion that requires a Decision Memo.

Current Department of the Interior procedures for complying with NEPA are set out in Departmental Manual 516 DM. Department-wide categorical exclusions are established in 516 DM, chapter 2, Appendix 1. In applying the categorical exclusions, bureaus must make a determination that the exemptions do not apply. No specific form of documentation has previously been required for this determination. While the Department of the Interior has not required formal documentation of its department-wide categorical exclusions, many bureaus of the Department of the Interior prescribe some formal documentation for their bureau-specific categorical exclusions. Due to the desire to have comparable categorical exclusions and consistency in use, the Department of the Interior will issue instructions for documenting and distributing the rationale for applying either of these two proposed categorical exclusions, consistent with Forest Service procedures.

As directed by the CEQ regulations at 40 CFR 1508.4, both the USDA Forest Service and the Department of the Interior procedures provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect. Extraordinary circumstances occur, for example, where proposed actions would have adverse effects on federally listed threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites. Where extraordinary circumstances occur, project analyses are documented in an environmental assessment or environmental impact statement. The proposed categorical exclusions would be applied in the absence of extraordinary circumstances in accordance with departmental procedures. The USDA Forest Service provisions for extraordinary circumstances are set out in FSH 1909.15, section 30.3. The Department of the Interior provisions for extraordinary circumstances, called exceptions, are set out in 516 DM, chapter 2, Appendix 2. USDA Forest Service and the Department of the Interior provisions for extraordinary circumstances may be viewed at *http://www.fs.fed.us/projects/HFI.shtml.*

Explanation of Proposed Categorical Exclusions

The USDA Forest Service and the Department of the Interior are proposing two categorical exclusions. These categorical exclusions would apply to National Forest System lands and to lands managed by the Department of the Interior agencies, including lands administered by the Bureau of Land Management, National Park Service, Fish and Wildlife Service, the Bureau of Indian Affairs, and the Bureau of Reclamation.

The first categorical exclusion proposed by the USDA Forest Service and the Department of the Interior addresses hazardous fuels reduction projects. Hazardous fuels consist of combustible vegetation (live or dead), such as grass, leaves, ground litter, plants, shrubs, and trees, that contribute to the threat of ignition and high fire intensity and/or high rate of spread. Hazardous fuels reduction involves manipulation, including combustion or removal of fuels, to reduce the likelihood of ignition and/or to lessen potential damage to the ecosystem from intense wildfire and to create conditions where firefighters can safely and effectively control wildfires. Activities that could be conducted under this proposed categorical exclusion are the thinning of trees (commercial or pre-commercial as identified in the 10-Year Comprehensive Strategy Implementation Plan) and the removal of combustible vegetation through mechanical means, grazing, and the use of prescribed fire.

The second proposed category addresses rehabilitation and stabilization of resources and infrastructure in the aftermath of a fire. Activities that could be conducted under this proposed categorical exclusion include rehabilitation of habitat, watersheds, and infrastructure impacted by wildfire and/or wildfire suppression. Reseeding or planting, fence construction, culvert repair, installation of erosion control devices, and repair of roads and trails are examples of activities necessary for the stabilization and rehabilitation of habitat, watersheds, historical, archeological, and cultural sites, and infrastructure impacted by wildfire and/or wildfire suppression.

When Will the Categorical Exclusions Be Used?

The hazardous fuels reduction categorical exclusion will be applicable only to projects identified in a manner that is consistent with the collaborative framework in the 10-Year Comprehensive Strategy Implementation Plan. Additionally, categorically excluded hazardous fuels reduction activities would not be conducted in wilderness areas or where they would impair the suitability of wilderness study areas for preservation as wilderness. Categorically excluded hazardous fuels reduction activities are further limited in that they cannot include the use of herbicides or pesticides or the construction of new permanent infrastructure. Infrastructure may be reconstructed, but no new permanent roads or new permanent construction may take place under this categorical exclusion.

Activities carried out under the rehabilitation and stabilization categorical exclusion would apply only to activities in the aftermath of a wildfire. Such activities are further limited in that they cannot include the use of pesticides or the construction of new permanent infrastructure. Infrastructure may be reconstructed, but no new permanent roads or new permanent construction may take place under this categorical exclusions.

Activities conducted using the proposed categorical exclusions must be consistent with agency and Departmental procedures, and with applicable land and resource management plans. For example, procedures and plans call for appropriate buffers from riparian areas or areas containing cultural or historical artifacts and for timing activities to avoid species of concern and sensitive species nesting periods. Products generated by use of mechanical methods under the proposed hazardous fuel reduction categorical exclusion would be sold or otherwise utilized or disposed of in accordance with agency and Departmental procedures.

In addition, the activities under both proposed categorical exclusions must meet all applicable Federal, State, and tribal laws or other requirements imposed for protection of the environment. For example, the Clean Air Act requires compliance with State standards for air quality. A categorical exclusion would not be used if air quality standards could not be met. Similarly, the Wilderness Act provides certain protections for areas designated by Congress as wilderness areas. Categorical exclusions would not be used where a proposed activity may have adverse effects on wilderness characteristics.

In addition, agencies can avoid significant environmental effects by following agency procedures related to compliance with other applicable laws. For example, effects on archeological and cultural resources can often be mitigated simply by identifying and avoiding those resources. As another example, the use of fire is coordinated with State regulatory agencies concerned with air quality to ensure that burning is carried out when atmospheric conditions are favorable to smoke dispersal.

In using categorical exclusions, agencies must continue conducting appropriate consultations with Federal and State regulatory agencies, such as those required by the Endangered Species Act and the National Historic Preservation Act. Activities categorically excluded from documentation in an environmental assessment or an environmental impact statement must still be evaluated to assess effects on threatened and endangered species, and undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service. Similarly, categorically excluded activities undergo surveys and evaluation of effects on properties protected by the National Historic Preservation Act, along with appropriate consultation with State Historic Preservation Officers. Such consultations help ensure that cumulative effects across jurisdictions will not be significant. The USDA Forest Service and the Department of the Interior invite comments on any additional factors to consider in crafting the final categorical exclusions that address the scope of their implementation.

Rationale for the Proposal

The Departments have extensive experience in hazardous fuels management, as well as in stabilization and rehabilitation of resources following a wildfire. In examining the basis for proposing these two categorical exclusions, the USDA Forest Service and the Department of the Interior reviewed projects that were undertaken for hazardous fuels reduction, and rehabilitation/stabilization. Some projects involved multiple activities of these types. The information review included 30 different data items for each project, including information on project location and size, vegetation cover type, fuels treatment type, predicted environmental effects, actual environmental effects after project completion, and mitigation measures. Environmental effects include ecological, aesthetic, historic, cultural, economic, social, or health effects as defined in 40 CFR 1508.8.

The agencies reviewed over 3,000 hazardous fuels reduction and rehabilitation/stabilization projects completed in FY 1998 through FY 2002; of these, over half were documented with environmental assessments, less than 50 were documented with environmental impact statements, and the remainder were categorically excluded from either of these types of documentation under existing categorical exclusions. Only 12 of these environmental impact statements contained predictions of significant environmental effects from hazardous fuels reduction and rehabilitation/stabilization activities. Current USDA Forest Service and the Department of the Interior NEPA procedures would preclude the application of any categorical exclusion to these 12 projects because of extraordinary circumstances. Had the 12 projects been considered for a categorical exclusion they would not have qualified because of extraordinary circumstances stemming from adverse effects on threatened and endangered species and uncertainty over the significance of effects on air quality and water quality.

The review indicates that hazardous fuels reduction activities and rehabilitation/stabilization activities, absent extraordinary circumstances, do not individually or cumulatively have significant effects on the human environment. A summary of the review is available at *http://www.fs.fed.us/projects/HFI.shtml.*

The CEQ regulations state that categorically excluded actions must not individually or cumulatively have a significant effect on the human environment (40 CFR 1508.4). Based on the previously discussed application of environmental laws, agency procedures, and the aforementioned review of the over 3,000 hazardous fuels reduction and rehabilitation/stabilization activities, the agencies conclude that the proposed categories of actions do not individually or cumulatively have significant effects on the human environment and, therefore, do not require either an environmental assessment or an environmental impact statement.

Monitoring Performance

Under the 10-Year Comprehensive Strategy Implementation Plan, the Secretaries of the Interior and the USDA have committed to a formal review process to monitor and evaluate performance, suggest revisions, and make necessary adaptations to the Strategy in collaboration with Federal, State, tribal, and local stakeholders. The agencies will conduct monitoring of selected collaboratively developed projects and activities to assess the progress and effectiveness of planning and implementation. Projects implemented under these proposed categorical exclusions will be included in this review.

Any revisions to the 10-Year Comprehensive Strategy Implementation Plan will integrate new information obtained from scientific research and on-the-ground experiences. As part of this monitoring and evaluation, the effectiveness of hazardous fuels reduction and rehabilitation/stabilization projects and the application of categorical exclusions will be reviewed. Based on monitoring results these categorical exclusions may be augmented or modified. Future modifications to these proposed categorical exclusions, if necessary, would be based in part on the results of monitoring and would involve additional public review.

The actual mechanism for monitoring will be the National Fire Plan Operations and Reporting System (NFPORS).

At the onset of the National Fire Plan, the wildland fire agencies identified the need for tools to assist them in capturing, monitoring and reporting accomplishments. While each agency had some mechanisms in place to meet accountability requirements, the agencies did not have an overarching system capable of providing sufficient analysis and reporting. Instead, each organization relied on a variety of disparate mechanisms for tracking and reporting hazardous fuels accomplishments.

In order to provide a single, unified interagency system, the Department of Interior teamed with the USDA Forest Service to develop the NFPORS. The system will collect data in the areas of restoration and rehabilitation, hazardous fuels reduction, community assistance, and the method of NEPA compliance (categorical exclusion, environmental assessment, or environmental impact statement).

Public Involvement in the Use of the Proposed Categories

The 10-Year Comprehensive Strategy provides a collaborative framework for the selection and prioritization of hazardous fuels reduction projects which includes extensive public participation. Use of the proposed hazardous fuels reduction categorical exclusion to meet the goals of the 10-Year Comprehensive Strategy will, therefore, include the public as provided in the collaborative framework.

Indeed, local involvement is the primary source of annual hazardous fuels project planning, prioritization, and resource allocation. The amount of collaboration at the local level will be consistent with the complexity of land ownership patterns, resource management issues, and the number of interested stakeholders. The hazardous fuels reduction categorical exclusion will be applicable only to projects identified consistent with this collaborative framework.

Conclusion

Consistent with direction provided by the President under the Healthy Forests Initiative and the 10-Year Comprehensive Strategy Implementation Plan, the agencies propose two new categorical exclusions: one for hazardous fuels reduction and one for stabilization and rehabilitation of resources and infrastructure after a fire. Based upon a review of field data, the agencies conclude that actions identified in the proposed categories would not individually or cumulatively have significant effects on the human environment and, therefore, would not require preparation of an environmental assessment or an environmental impact statement.

These proposed categorical exclusions would permit timely response to forest health problems involving hazardous fuels and would provide for timely stabilization and rehabilitation of resources and infrastructure impacted by fire and/or wildfire suppression. Public comment is invited on this proposal and will be considered in adopting final categorical exclusions. The text of the proposed categorical exclusions is set out at the end of this notice.

Regulatory Certifications

Environmental Impact

These proposed categorical exclusions would add direction to guide field employees in the USDA Forest Service and the Department of the Interior regarding requirements for National Environmental Policy Act (NEPA) documentation for fire management activities. Forest Service Handbook 1909.15, section 31.1b categorically excludes from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' Department of the Interior Manual 516 DM, chapter 2, Appendix 1 categorically excludes from documentation in an environmental assessment or environmental impact statement ''policies, directives, regulations, and guidelines of an administrative, financial, technical, or procedural nature.'' The agencies' preliminary assessment is that these proposed categorical exclusions fall within these categories of actions in the absence of extraordinary circumstances. A final determination will be made upon adoption of the final categorical exclusions. In addition, pursuant to 40 CFR 1505.1 and 1507.3, the USDA Forest Service and the Department of the Interior are consulting with the Council on Environmental Quality (CEQ) to ensure full compliance with the purposes and provisions of NEPA and the CEQ implementing regulations.

Regulatory Impact

These proposed categorical exclusions have been reviewed under Departmental procedures and Executive Order 12866 on Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this is a significant regulatory action as defined by Executive Order 12866. Accordingly, OMB has reviewed these proposed categorical exclusions.

This action to add two categorical exclusions to the agencies' NEPA procedures will not have an annual effect of $100 million or more on the economy or adversely affect productivity, competition, jobs, the environment, public health or safety, or State, tribal, or local governments. This action may interfere with an action taken or planned by another agency or raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this action is subject to Office of Management and Budget review under Executive Order 12866.

Moreover, this action has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it is hereby certified that the proposed categorical exclusions will not have a significant economic impact on a substantial number of small entities as defined by the act because it will not impose record-keeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market.

Federalism

The agencies have considered these proposed categorical exclusions under the requirements of Executive Order 13132, Federalism, and have concluded that they conform with the federalism principles set out in this Executive Order; will not impose any compliance costs on the States; and will not have substantial direct effects on the States or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agencies have determined that no further assessment of federalism implications is necessary.

Consultation and Coordination With Indian Tribal Governments

These proposed categorical exclusions do not have tribal implications as defined by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and therefore advance consultation with tribes is not required.

No Takings Implications

These proposed categorical exclusions have been analyzed in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the proposed categorical exclusions do not pose the risk of a taking of Constitutionally protected private property.

Civil Justice Reform

In accordance with Executive Order 12988, it has been determined that these categorical exclusions do not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Unfunded Mandates

Pursuant to title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agencies have assessed the effects of these proposed categorical exclusions on State, local, and tribal governments and the private sector. These proposed categorical exclusions do not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Energy Effects

These proposed categorical exclusions have been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that these proposed categorical exclusions do not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

These proposed categorical exclusions do not contain any additional record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use, and therefore, impose no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

For the Forest Service, U.S. Department of Agriculture.

Dated: December 10, 2002.

Dale N. Bosworth,

Chief.

For the U.S. Department of the Interior.

Dated: December 11, 2002.

Christopher B. Kearney,

Acting Assistant Secretary for Policy, Management and Budget.

Proposed Categorical Exclusions

Note: When the proposed categorical exclusions have been finalized, the USDA Forest Service and the Department of the Interior will issue the categorical exclusions in their NEPA procedures. The categorical exclusions would appear in Forest Service Handbook (FSH) 1909.15, Environmental Policy and Procedures, section 31.2 and Department of the Interior Manual 516 DM, chapter 2, Appendix 1, Departmental Categorical Exclusions. Reviewers who wish to view the entire chapter 30 of FSH 1909.15 may obtain a copy electronically from the USDA Forest Service directives page on the World Wide Web at *http://www.fs.fed.us/im/directives/*. Reviewers who wish to view the Department of the Interior Manual 516 DM may obtain a copy electronically from the Department of the Interior page at *http://elips.doi.gov/table.cfm.*

Following is the text of the two categorical exclusions:

• Hazardous fuels reduction activities (prescribed fire, and mechanical or biological methods such as crushing, piling, thinning, pruning, cutting, chipping, mulching, grazing and mowing) when the activity has been identified consistent with the framework described in A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan. Such activities:

—Shall be conducted consistent with agency and Departmental procedures and land and resource management plans; and
—Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; and
—Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure.

• Activities (such as reseeding or planting, fence construction, culvert repair, installation of erosion control devices, and repair of roads and trails) necessary for the stabilization and rehabilitation of habitat, watersheds, historical, archeological, and cultural sites and infrastructure impacted by wildfire and/or wildfire suppression. Such activities:

—Shall be conducted consistent with agency and Departmental procedures and land and resource management plans; and
—Shall not include the use of herbicides or pesticides or the

construction of new permanent roads or other new permanent infrastructure.

[FR Doc. 02–31576 Filed 12–11–02; 3:00 pm]

BILLING CODE 3410–11 and 4310–70–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for the Housing Preservation Grant Program.

DATES: Comments on this notice must be received by February 11, 2003 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Mary Fox, Senior Loan Specialist, Multi-Family Housing Processing Division, RHS, United States Department of Agriculture, Stop 0781, 1400 Independence Ave., SW., Washington, DC 20250–0782, Telephone (202) 720–1624.

SUPPLEMENTARY INFORMATION:

Title: RHS/Housing Preservation Grant Program.

OMB Number: 0575–0115.

Expiration Date of Approval: April 30, 2003.

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

Abstract: The primary purpose of the Housing Preservation Grant Program is to repair or rehabilitate individual housing, rental properties, or co-ops owned or occupied by very low- and low-income rural persons. Grantees will provide eligible homeowners, owners of rental properties and owners of co-ops with financial assistance through loans, grants, interest reduction payments or other comparable financial assistance for necessary repairs and rehabilitation of dwellings to bring them up to code or minimum property standards. Where repair and rehabilitation assistance is not economically feasible or practical the replacement of existing, individual owner occupied housing is available.

These grants were established by Public Law 98–181, the Housing Urban-Rural Recovery Act of 1983, which amended the Housing Act of 1979 (Pub. L. 93–383) by adding section 533, 42 U.S.C. S 2490(m), Housing Preservation Grants (HPG). In addition, the Secretary of Agriculture has authority to prescribe rules and regulations to implement HPG and other programs under 42 U.S.C. S 1480(j).

Section 533(d) is prescriptive about the information applicants are to submit to RHS as part of their application and in the assessments and criteria RHS is to use in selecting grantees. An applicant is to submit a ''statement of activity'' describing its proposed program, including the specific activities it will undertake, and its schedule. RHS is required in turn to evaluate proposals on a set of prescribed criteria, for which the applicant will also have to provide information, such as: (1) Very low- and low-income persons proposed to be served by the repair and rehabilitation activities; (2) participation by other public and private organizations to leverage funds and lower the cost to the HPG program; (3) the area to be served in terms of population and need: (4) cost data to assure greatest degree of assistance at lowest cost; (5) administrative capacity of the applicant to carry out the program. The information collected will be the minimum required by law and by necessity for RHS to assure that it funds responsible grantees proposing feasible projects in areas of greatest need. Most data are taken from a localized area, although some are derived from census reports of city, county and Federal governments showing population and housing characteristics.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .96 hours per response.

Respondents: A public body or a public or private nonprofit corporation.

Estimated Number of Respondents: 1,850.

Estimated Number of Responses per Respondent: 6.5.

Estimated Total Annual Burden on Respondents: 11,614 hours.

Copies of this information collection can be obtained from Jean Mosley, Regulations and Paperwork Management Branch at (202 692–0041).

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jean Mosley, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: December 4, 2002.

Arthur A. Garcia,

Administrator, Rural Housing Service.

[FR Doc. 02–31523 Filed 12–13–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–820]

Suspension of Antidumping Investigation: Fresh Tomatoes From Mexico

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

ACTION: Notice of suspension of antidumping investigation on fresh tomatoes from Mexico.

EFFECTIVE DATE: December 16, 2002.

SUMMARY: The Department of Commerce has suspended the antidumping investigation involving fresh tomatoes from Mexico. The basis for the suspension of the antidumping investigation is an agreement between the Department of Commerce and producers/exporters accounting for substantially all imports of fresh tomatoes from Mexico wherein each signatory producer/exporter has agreed to revise its prices to eliminate completely the injurious effects of exports of this merchandise to the United States.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Janis Kalnins at (202) 482–4794 or (202) 482–1393, respectively; Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 353 (1996).

Background

On April 18, 1996, the Department initiated an antidumping investigation to determine whether imports of fresh tomatoes from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV) (61 FR 18377, April 25, 1996). On May 16, 1996, the U.S. International Trade Commission (ITC) notified the Department of its affirmative preliminary injury determination.

On October 10, 1996, the Department and Mexican tomato growers/exporters initialed a proposed agreement to suspend the antidumping investigation. On October 28, 1996, the Department preliminarily determined that imports of fresh tomatoes from Mexico are being sold at LTFV in the United States. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Tomatoes from Mexico,* 61 FR 56607 (November 1, 1996) (*Preliminary Determination*). On the same day on which the Department issued the *Preliminary Determination,* the Department and certain growers/exporters of fresh tomatoes from Mexico signed an agreement to suspend the investigation (1996 Suspension Agreement). See *Suspension of Antidumping Investigation: Fresh Tomatoes from Mexico,* 61 FR 56618 (November 1, 1996).

On May 31, 2002, Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico provided written notice to the Department of their withdrawal from the 1996 Suspension Agreement on fresh tomatoes from Mexico. Because the 1996 Suspension Agreement no longer covered substantially all imports of fresh tomatoes from Mexico, effective July 30, 2002, the Department terminated the 1996 Suspension Agreement, terminated the sunset review of the suspended investigation, and resumed the antidumping investigation. See *Notice of Termination of Suspension Agreement, Termination of Sunset Review, and Resumption of Antidumping Investigation: Fresh Tomatoes from Mexico,* 67 FR 50858 (August 6, 2002). With the termination of the 1996 Suspension Agreement, in accordance with section 734(i)(1)(B) of the Act, the Department resumed the underlying antidumping investigation.

On November 8, 2002, the Department and Mexican tomato growers/exporters initialed a proposed agreement suspending the resumed antidumping investigation on imports of fresh tomatoes from Mexico. The Department provided parties an opportunity to submit comments on the initialed agreement, and on November 22, 2002, the Department received comments from several parties. The memorandum titled ''Comments on the Proposed Agreement Suspending the Antidumping Duty Investigation'' from Mark Ross, Program Manager, to the File explains the Department's response to these comments.

On December 4, 2002, the Department and certain growers/exporters of fresh tomatoes from Mexico signed a new suspension agreement (2002 Suspension Agreement). The 2002 Suspension Agreement is attached to this notice of Suspension of Antidumping Investigation.

Scope Clarification

On September 30, 1996, Desert Glory, Ltd. (Desert Glory), filed a letter requesting that the Department exclude cocktail tomatoes from the scope of the investigation. The petitioners responded to Desert Glory's letter on October 10, 1996, clarifying that the petition's scope did not include cocktail tomatoes. In the *Preliminary Determination,* the Department excluded cocktail tomatoes from the scope of the investigation.

On September 17, 2002, the petitioners filed a letter requesting the withdrawal of their October 10, 1996, scope-clarification letter and encouraged the Department to exercise its own authority to clarify the scope of the investigation so that it includes cocktail tomatoes. On November 15, 2002, the Department released a draft scope-clarification memorandum to the parties to the proceeding to communicate the Department's intent to include cocktail tomatoes in the scope of the investigation and give the parties the opportunity to present their views on this intention.

On November 20, 2002, Desert Glory submitted comments on the draft scope-clarification memorandum, and on November 25, 2002, the petitioners submitted rebuttal comments. After analysis of these comments and the information on the record, the Department determined to include cocktail tomatoes within the scope of the investigation. See December 4, 2002, memorandum entitled ''Scope Clarification'' from Laurie Parkhill, Office Director, to Faryar Shirzad, Assistant Secretary for Import Administration, available in the Central Records Unit, Room B–099 of the main building of the Commerce Department.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposal to suspend the antidumping investigation. In accordance with section 734(c) of the Act, we have determined that extraordinary circumstances are present in this case, as defined by section 734(c)(2)(A) of the Act. See the memorandum titled ''Existence of Extraordinary Circumstances'' from Laurie Parkhill, Office Director, to Faryar Shirzad, Assistant Secretary for Import Administration.

The 2002 Suspension Agreement provides that the subject merchandise will be sold at or above the established reference price and, for each entry of each exporter, the amount by which the estimated normal value exceeds the export price (or constructed export price) will not exceed 15 percent of the weighted-average amount by which the estimated normal value exceeded the export price (or constructed export price) for all LTFV entries of the producer/exporter examined during the course of the investigation. We have determined that the 2002 Suspension Agreement will eliminate completely the injurious effect of exports to the United States of the subject merchandise and prevent the suppression or undercutting of price levels of domestic fresh tomatoes by imports of that merchandise from Mexico.

We have also determined that the 2002 Suspension Agreement is in the public interest and can be monitored effectively, as required under section 734(d) of the Act. See the memorandum titled ''Public Interest Assessment of the Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico'' from Jeffrey May, Director of the Office of Policy, to Faryar Shirzad, Assistant Secretary for Import Administration.

For the reasons outlined above, we find that the 2002 Suspension Agreement meets the criteria of section 734(c) of the Act.

International Trade Commission

In accordance with section 733(f) of the Act, the Department has notified the ITC of the 2002 Suspension Agreement.

Suspension of Liquidation

The suspension of liquidation ordered in the preliminary affirmative determination in this case published on November 1, 1996, and resumed on August 6, 2002 (see 67 FR 50858), shall continue to be in effect, subject to section 734(h)(3) of the Act. Section 734(f)(2)(B) of the Act provides that the Department may adjust the security required to reflect the effect of the 2002 Suspension Agreement. The Department has found that the 2002 Suspension Agreement eliminates completely the injurious effects of imports and, thus, the Department is adjusting the security required from signatories to zero. The security rates in effect for imports from non-signatory growers remain as published in the *Preliminary Determination.*

Notwithstanding the 2002 Suspension Agreement, the Department will continue the investigation if it receives such a request within 20 days after the date of publication of this notice in the **Federal Register**, in accordance with section 734(g) of the Act.

Enforcement

To ensure effective enforcement of the 2002 Suspension Agreement, the Department worked closely with the U.S. Customs Service in drafting the terms of the 2002 Suspension Agreement. Pursuant to its obligations under section 734(i) of the Act, the U.S. Customs Service has informed the Department that it concurs with the enforcement provisions the Department included in the 2002 Suspension Agreement.

Administrative Protective Order Access

The Administrative Protective Orders (APOs) the Department granted in the original investigation segment of this proceeding remain in place. While the investigation is suspended, parties subject to those APOs may retain, but may not use, information received under those APOs. All parties wishing access to business proprietary information submitted during the administration of the 2002 Suspension Agreement must submit new APO applications. An APO for the administration of the 2002 Suspension Agreement will be placed on the record within five days of the date of publication of this notice in the **Federal Register**.

We are publishing this notice in accordance with section 734 of the Act and 19 CFR 353.18.

Dated: December 10, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

December 4, 2002 Agreement

Suspension of Antidumping Investigation: Fresh Tomatoes from Mexico

Pursuant to section 734(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1673c(c)) (''the Act''), and section 353.18 of the U.S. Department of Commerce (''the Department'') regulations (19 C.F.R. 353.18), the Department and the signatory producers/exporters of fresh tomatoes from Mexico enter into this Suspension Agreement (the ''Agreement''). On the basis of this Agreement, the Department shall suspend its antidumping duty investigation, the initiation of which was published on April 25, 1996 (61 FR 18377), with respect to fresh tomatoes from Mexico, subject to the terms and provisions set out below.

I. Product Coverage

The merchandise subject to this Agreement is all fresh or chilled tomatoes (fresh tomatoes) which have Mexico as their origin, except for those tomatoes which are for processing. For purposes of this Agreement, processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying, or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. In Appendix F of this Agreement the Department has outlined the procedure that signatories must follow for selling subject merchandise for processing. Fresh tomatoes that are imported for cutting up, not further processing (*e.g.*, tomatoes used in the preparation of fresh salsa or salad bars), are covered by this Agreement.

Commercially grown tomatoes, both for the fresh market and for processing, are classified as Lycopersicon esculentum. Important commercial varieties of fresh tomatoes include common round, cherry, grape, plum, greenhouse, and pear tomatoes, all of which are covered by this Agreement.

Tomatoes imported from Mexico covered by this Agreement are classified under the following subheadings of the Harmonized Tariff Schedules of the United States (HTSUS), according to the season of importation: 0702 and 9906.07.01 through 9906.07.09. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this Agreement is dispositive.

II. U.S. Import Coverage

The signatories are the producers and exporters in Mexico which account for substantially all of the subject merchandise imported into the United States. The Department may at any time during the period of the Agreement require additional producers/exporters in Mexico to sign the Agreement in order to ensure that not less than substantially all imports into the United States are subject to the Agreement.

III. Basis for the Agreement

Each signatory individually agrees that, in order to prevent price suppression or undercutting, it will not sell, on and after the effective date of the Agreement, merchandise subject to the Agreement at prices that are less than the reference price, in accordance with Appendix A to this Agreement.

In order to satisfy the requirements of section 734(c)(1)(B) of the Act, each signatory agrees individually that for each entry the amount by which the estimated normal value exceeds the export price (or the constructed export price) will not exceed 15 percent of the weighted-average amount by which the estimated normal value exceeded the export price (or the constructed export price) for all less-than-fair-value entries of the producer/exporter examined during the course of the investigation, in accordance with the calculation methodologies described in Appendix B of this Agreement.

IV. Monitoring of the Agreement

A. Import Monitoring

1. The Department will monitor entries of fresh tomatoes from Mexico to ensure compliance with section III. of this Agreement.

2. The Department will review publicly available data and other official import data, including, as appropriate, records maintained by the U.S. Customs Service, to determine whether there have been imports that are inconsistent with the provisions of this Agreement.

B. Compliance Monitoring

1. The Department may require, and each signatory agrees to provide, confirmation, through documentation provided to the Department, that the price received on any sale subject to this Agreement was not less than the established reference price. The Department may require that such documentation be provided, and be subject to verification, within thirty days of the sale.

2. The Department may require, and each signatory agrees to report in the prescribed format and using the prescribed method of data compilation, each sale of the merchandise subject to this Agreement, either directly or indirectly to unrelated purchasers in the United States, including each adjustment applicable to each sale, as specified by the Department.

Each signatory agrees to permit review and on-site inspection of all information deemed necessary by the Department to verify the reported information.

3. The Department may conduct administrative reviews under section 751 of the Act, upon request or upon its own initiative, to ensure that exports of fresh tomatoes from Mexico are at prices consistent with the terms of this Agreement. The Department may perform verifications pursuant to administrative reviews conducted under section 751 of the Act.

4. At any time and without prior notice, the Department may conduct verifications of parties handling signatory merchandise to determine whether they are selling signatory merchandise in accordance with the terms of this Agreement.

C. Shipping and Other Arrangements

1. All reference prices will be expressed in U.S.$/lb. in accordance with Appendix A of this Agreement. Subject to paragraph 24 of Annex 703.2 of the North American Free Trade Agreement, the quality of each entry of fresh tomatoes exported to the United States from Mexico will conform with any applicable U.S. Department of Agriculture minimum grade, size, and/or quality import requirements in effect.

2. Signatories agree not to circumvent the Agreement and to undertake measures that will help to prevent circumvention. For example, each signatory will take the following actions:

a. It is the responsibility of all signatories to ensure that sales of their merchandise are made consistent with the requirements of this Agreement. To that end, each signatory shall enter into a contract, with the party that is responsible for the first sale of its subject merchandise to an unaffiliated customer in the United States (the Selling Agent),[1] that incorporates the terms of this Agreement. Through a contractual arrangement signatories shall also require the Selling Agent establish a contract with third parties to ensure that adjustments for spoilage or other claims inconsistent with the Agreement will not be permitted. Further, this contractual arrangement must establish that the Selling Agent maintain documentation demonstrating that sales of their merchandise are made consistent with the requirements of this Agreement.

b. Each signatory will label its boxes of subject merchandise that are exported to the United States with its name, signatory identification number, and a statement that ''These Tomatoes Were Grown/Exported by a Signatory of the December 2002 Suspension Agreement.'' Alternatively, if the signatory that exports the tomatoes is different from the entity that grew the tomatoes, it will label the boxes with its name and its signatory identification number.

c. Each signatory will label its boxes of fresh tomatoes sold in Mexico with its name and the title ''Prohibida Su Exportacion.''

3. Not later than thirty days after each quarter, each signatory will submit a written statement to the Department certifying that all sales during the most recently completed quarter were at net prices (after rebates, backbilling, discounts for quality and other claims) at or above the reference price and were not part of or related to any act or practice which would have the effect of hiding the real price of the fresh tomatoes being sold (*e.g.*, a bundling arrangement, discounts/free goods/financing package, swap, or other exchange). Each signatory agrees to permit full verification of its certification as the Department deems necessary.

D. Rejection of Submissions

The Department may reject: 1) Any information submitted after the deadlines set forth in this Agreement; 2) any submission that does not comply with the filing, format, translation, service, and certification of documents requirements under 19 CFR 353.31; 3) submissions that do not comply with the procedures for establishing business proprietary treatment under 19 CFR 353.32 or any information that it is unable to verify to its satisfaction. If information is not submitted in a complete and timely fashion or is not fully verifiable, the Department may use the facts otherwise available for the basis of its decision, as it determines appropriate, unless the Department determines that section V. applies.

E. Compliance Consultations

1. When the Department identifies, through import or compliance monitoring or otherwise, that sales may have been made at prices inconsistent with section III. of this Agreement, the Department will notify each signatory which it believes is responsible or, if applicable, notify the signatory's representative. The Department will consult with each such party for a period of up to sixty days to establish a factual basis regarding sales that may be inconsistent with section III. of this Agreement.

2. During the consultation period, the Department will examine any information that it develops or which is submitted, including information requested by the Department under sections IV.A. and B. above.

F. Review

If the Department is not satisfied at the conclusion of the consultation period that sales by such signatory are being made in compliance with this Agreement, the Department may conduct a review to determine whether this Agreement is being violated by such signatory. This provision does not limit or restrict the Department's authority to conduct an administrative review under section 751 of the Act and paragraph IV.B.3. of this Agreement.

G. Operations Consultations

The Department will consult with the signatory producers/exporters regarding the operations of this Agreement. A party to the Agreement may request such consultations in any April or September (*i.e.*, prior to the beginning of each season) following the first year of the signing of this Agreement.

In order to evaluate whether this Agreement fulfills the requirements of section 734(c)(1)(A) of the Act (prevents the suppression or undercutting of price levels of domestic products by imports of fresh tomatoes), within 30 days from the date this Agreement is signed the Department will begin to analyze historical price and shipment volume data from certain U.S. and Mexican producers of fresh tomatoes. The Department will also gather such information concerning prices and shipment volumes experienced during the first four months of this Agreement and any other information the Department believes pertinent to its analysis.

The Department expects to make an adjustment to the reference price to take into account such events as significant changes in the relationship of domestic prices and volumes to import prices and volumes. In evaluating the significance of any change, the Department will look both to the extent of the change and its duration. For example, a very high percentage change in the relationship may be significant even though it occurs over a brief time period.

The information gathered will be subject to release under administrative protective order and to comment by interested parties. Where appropriate, the information will also be subject to verification. The Department will complete its evaluation of this information by July 31, 2003, and will release the results of its analysis for comment. The Department will issue the final results of its analysis by October 1, 2003. The Department will post any revision to the reference price to its Web site (*http://www.ia.ita.doc.gov/tomato*), and any such revision will take effect on November 1, 2003.

In order to evaluate whether this Agreement fulfills the requirements of section 734(c)(1)(B) of the Act, the Department may conduct an administrative review under section 751 of the Act, upon request or upon its own initiative, to ensure that for each entry of each exporter the amount by which the estimated normal value exceeds the export price (or the constructed export price) did not exceed 15 percent of the weighted-average amount by which the estimated normal value exceeded the export price (or the constructed export price) for all less-than-fair-value entries of the producer/exporter examined during the course of the investigation, in accordance with the calculation methodologies described in Appendix B. An affirmative determination under section 751 of the Act may result in the termination of this Agreement.

V. Violations of the Agreement

A. If the Department determines that the Agreement is being or has been violated or no longer meets the requirements of sections 734(c) or (d) of the Act, the Department shall take action it determines appropriate under section 734(i) of the Act and the Department's regulations.

B. Pursuant to section 734(i) of the Act the Department will refer any intentional violations of the Agreement to the U.S. Customs Service. Any person who intentionally violates the Agreement shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedures as the penalty imposed for a fraudulent violation of section 592(a) of the Act. A fraudulent violation of section 592(a) of the Act is punishable by a civil penalty in an amount not to exceed the domestic value of the merchandise. For purposes of the Agreement, the domestic value of the merchandise will be deemed to be the reference price, as the signatories agree not to sell the subject merchandise at prices that are less than the reference price or to ensure that sales of the subject merchandise are made consistent with the terms of the Agreement.

C. In addition, the Department will examine the activities of signatories, their Selling Agents, and any other party to a sale subject to the Agreement to determine whether any activities conducted by any party aided or abetted another party's

[1] The Selling Agent can be an importer, agent, broker, distributor, or any other entity that facilitates the transaction between the signatory and the first unaffiliated U.S. customer.

violation of the Agreement. If any such parties are found to have aided or abetted another party's violation of the Agreement, they shall be subject to the same civil penalties described in section V.B. above.

Signatories of this Agreement consent to the release of all information presented to or obtained by the Department during the conduct of verifications with the U.S. Customs Service and/or the U.S. Department of Agriculture. Further, through a contractual arrangement, signatories shall require that the Selling Agent consent to the release of all information presented to or obtained by the Department during the conduct of verifications with the U.S. Customs Service and/or the U.S. Department of Agriculture.

D. The following activities shall be considered violations of the Agreement:

1. Sales that are at net prices (after rebates, backbilling, discounts for quality and other claims) that are below the reference price.

2. Any act or practice which would have the effect of hiding the real price of the fresh tomatoes being sold (*e.g.*, a bundling arrangement, discounts/free goods financing package, swap, or other exchange).

3. Sales that are not in accordance with the terms and conditions applied by the Department when calculating prices for transactions involving adjustments due to changes in condition after shipment as detailed in Appendix D of this Agreement.

4. Selling signatory tomatoes to Canada in a manner that is not consistent with the requirements of Appendix E of this Agreement.

5. Selling signatory tomatoes for processing in the United States in a manner that is not consistent with the requirements of Appendix F of this Agreement.

6. Any other act or practice that the Department or U.S. Customs Service finds in violation of the Agreement.

VI. Other Provisions

A. In entering into this Agreement the signatories do not admit that any exports of fresh tomatoes from Mexico are having or have had an injurious effect on fresh tomato producers in the United States or have been sold at less than fair value. The signatories also do not admit that greenhouse, cherry, or any other particular type of tomatoes are properly considered within the scope of the underlying investigation.

B. The signatories may withdraw from this Agreement upon ninety days written notice to the Department.

C. Upon request, the Department will advise any signatory of the Department's methodology for calculating its export price (or constructed export price) and normal value which, for purposes of this Agreement, are described in Appendix B of this Agreement. Further, the Department reserves the right to modify its methodology in calculating export price (or constructed export price) and normal value.

VII. Disclosure and Comment

A. If the Department proposes to revise the reference price as a result of consultations under this Agreement, not later than three months prior to the first day of each semi-annual period, the Department will disclose the results and the methodology of the Department's calculation of the preliminary reference price established for that upcoming semi-annual period.

B. Not later than seven days after the date of disclosure under paragraph VII.A., the parties to the proceeding may submit written comments to the Department, not to exceed fifteen pages. After reviewing these submissions, the Department will provide the final reference price for the upcoming semi-annual period, normally within thirty days after the date of disclosure under paragraph VII.A.

C. The Department may make available to representatives of each interested party to the proceeding, under appropriately drawn administrative protective orders, any business proprietary information submitted to the Department pursuant to section IV. of this Agreement, as well as the results of the Department's analysis of that information.

VIII. Termination

Absent affirmative determinations under the five-year review provisions of sections 751 and 752 of the Act, the Department expects to terminate this Agreement and the underlying investigation no later than five years from the date on which this Agreement is published in the **Federal Register**.

IX. Effective Date

The effective date of the Agreement is the date on which it is published in the **Federal Register**.

Dated: December 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

The following parties hereby certify that the members of their organization agree to abide by all terms of the Agreement:

Dated: December 4, 2002.

Dr. Rolando Zubia Rivera,
President.
For Caades Sinaloa, A.C.

Dated: December 4, 2002.

Mauricio Castaneda Castro,
President.
For Consejo Agricola de Baja California, A.C.

Dated: December 4, 2002.

Ing. Angel I. Urrutia M.,
President.
For Asociacion Mexicana de Productores de Hortalizas de Invernadero, A.C.

Dated: December 4, 2002.

Ing. Rafael Orduno Valdez,
President.
For Union Agricola Regional de Sonora, Productores de Hortalizas Frutas y Legumbres.

Dated: December 4, 2002.

Basilio Gatzionis Torres,
President.
For Confederacion Nacional de Productores de Hortalizas.

Appendix A—Suspension of Antidumping Investigation—Fresh Tomatoes from Mexico—Reference Price

Consistent with the requirements of section 734(c) of the Act, to eliminate completely the injurious effect of exports to the United States and to prevent the suppression or undercutting of price levels of domestic fresh tomatoes, the Department and signatory producer/exporters of subject merchandise hereby agree to adopt the reference prices calculated based on the methodology outlined in the November 1, 1996, agreement suspending the antidumping investigation involving fresh tomatoes from Mexico, as amended on August 14, 1998. See *Suspension of Antidumping Investigation; Fresh Tomatoes from Mexico,* 61 FR 56618, 56620 (November 1, 1996), October 28, 1996, Memorandum to Robert S. LaRussa titled ''The Prevention of Price Suppression or Undercutting of Price Levels in the Suspension Agreement Covering Fresh Tomatoes from Mexico,'' and *Amendment to the Suspension Agreement on Fresh Tomatoes from Mexico,* 63 FR 43674 (August 14, 1998). Accordingly, the reference price for the July 1 through October 22 period will be $0.172 per pound and the reference price for the October 23 through June 30 period will be $0.2108 per pound.

These reference prices will remain in effect unless modified in accordance with the provisions of paragraph IV.G. of the Agreement.

The term ''reference price'' refers to the price F.O.B. from the Selling Agent. The reference price includes all palletizing and cooling charges incurred prior to shipment from the Selling Agent. The actual movement or handling expenses beyond the point of entry into the United States (*e.g.*, McAllen, Nogales, Otay Mesa) must be added to the reference price and must reflect the cost for an arm's-length transaction. The charts below contain examples of the minimum common trucking charges the USDA observed for the 2002 winter season.

F.O.B. McAllen to:	Los Angeles	New York	Chicago
Rate ($US)/Per Truckload	$800	$2000	$1200

F.O.B. Nogales to:	Los Angeles	New York	Chicago
Rate ($US)/Per Truckload	$800	$3500	$2400

Parties should refer to *http://www.ams.usda.gov/fv/mncs/fvwires.htm* to obtain examples of common trucking charges pertinent to the current season. Where the Selling Agent sells through an affiliated party, the transfer price from the Selling Agent to the affiliate must be at or above the reference price and any subsequent sale to an unaffiliated party must include the actual cost of markups (*e.g.*, trucking charges) that reflect arm's-length costs. For guidance on the trucking-charge markup for such resales, parties should refer to *http://www.ams.usda.gov/fv/mncs/fvwires.htm* to obtain common trucking charges pertinent to the current season.

During the Department's verifications of parties handling signatory merchandise it will ascertain whether (1) the handling expenses beyond the point of entry into the United States are added to the reference price and reflect the actual cost for an arm's-length transaction and (2) the transfer price from Selling Agents to their affiliates are at or above the reference price and any subsequent sale to an unaffiliated party includes markups (*e.g.*, trucking charges) that reflect arm's-length costs.

The reference price for each type of box shall be determined based on the average weights stated in the chart contained in Appendix C of the Agreement.

Appendix B—Suspension of Antidumping Investigation—Fresh Tomatoes From Mexico—Analysis of Prices at Less Than Fair Value

A. Normal Value

The cost or price information reported to the Department that will form the basis of the normal value (NV) calculations for purposes of the Agreement must be comprehensive in nature and based on a reliable accounting system (*e.g.*, a system based on well-established standards and can be tied either to the audited financial statements or to the tax return filed with the Mexican government).

1. Based on Sales Prices in the Comparison Market

When the Department bases normal value on sales prices, such prices will be the prices at which the foreign like product is first sold for consumption in the comparison market in the usual commercial quantities and in the ordinary course of trade. Also, to the extent practicable, the comparison shall be made at the same level of trade as the export price (EP) or constructed export price (CEP). The calculation of normal value based on a sales price in the comparison market will vary depending on whether the comparison is price-to-EP or price-to-CEP.

2. Constructed Value

When normal value is based on constructed value, the Department will compute constructed values (CVs) specific growing season specific based on the sum of each respondent's growing costs for each type of tomato, plus amounts for selling, general and administrative expenses (SG&A), U.S. packing costs, and profit. The Department will collect this cost data for an entire growing season in order to determine the accurate per-unit CV of that growing season.

Calculation of CV:

+ Direct Materials
+ Direct Labor
+ Factory overhead
= Cost of Manufacturing
+ Home Market SG&A*
= Cost of Production
+ Profit*
= Constructed Value (CV)

* SG&A and profit are based on home-market sales of the foreign like product made in the ordinary course of trade.

B. Export Price and Constructed Export Price

EP and CEP refer to the two types of calculated prices for merchandise imported into the United States. Both EP and CEP are based on the price at which the subject merchandise is first sold to a person not affiliated with the foreign producer or exporter.

Calculation of EP:

Gross Unit Price
− Movement Expenses
− Discounts and Rebates
= Export Price (EP)

Calculation of CEP:

Gross Unit Price
− Movement Expenses
− Discounts and Rebates
− Direct Selling Expenses
− Indirect Selling Expenses that relate to commercial activity in the United States
− The cost of any further manufacture or assembly incurred in the United States
− CEP Profit
= Constructed Export Price (CEP)

C. Fair Comparisons

To ensure that a fair comparison with normal value is made, the Department will make adjustments to the price to the first unaffiliated customer in calculating the EP or CEP. For both EP and CEP the Department will add packing costs, if not already included in the price, rebated import duties, and, if applicable, certain countervailing duties. For both EP and CEP, the Department will deduct transportation costs and export taxes or duties. In calculating CEP, the Department will make additional deductions for commissions, direct selling expenses incurred in selling the merchandise under investigation in the United States, the cost of any further manufacture or assembly performed in the United States, and a portion of profit. In addition, the Department will deduct indirect selling expenses that relate to commercial activity in the United States.

Appendix C—Suspension of Antidumping Investigation—Fresh Tomatoes From Mexico—Box Weights

The Department has the sole authority to make revisions to the Box Weight Chart used to apply the reference price to particular box configurations. The reference price for each type of box shall be determined based on the average weights stated in the chart below. The Department will coordinate with the U.S. Customs Service in its collection and review of data for calculating and monitoring box-specific average weights. To derive representative average weights for each box type in the chart below, the Department will weigh twenty sample boxes, randomly chosen without notice, from three different shippers (*i.e.*, an average weight of sixty boxes for each box type in the chart).

If the Department determines to revise an average weight figure based upon information that an average weight on the chart is no longer accurate, the Department will provide at least fifteen days notice to signatories (either directly or through their representative in this proceeding) prior to the effective date of such revised average weights for purposes of this Agreement. The Department will determine the revised average weight in accordance with the procedure described above. Once the Department determines the revised average weight, the weight will become effective at the beginning of the next growing season (which will be either July 1 or October 23 of a year).

In the event that a signatory intends to export subject merchandise to the United States in a box for which there is no average weight on the chart, the signatory shall notify the Department in writing no later than forty-five days prior to the date of the first exportation of such boxes to the United States. Signatories can obtain from the Department's website a copy of the suggested form for submitting this information. See ''Notification of Intent to Ship Tomatoes in a Specialty Pack'' at *http://ia.ita.doc.gov/tomato/suggested_forms/.* This information must be submitted to the Department in accordance with the filing instructions set forth under 19 CFR 353.31 and 353.32. The Department shall allow any interested party to submit written comments, not to exceed ten pages, on the appropriate average weight for the box within seven days after the filing of the written notification by the signatory, and the Department shall inform the signatory or its representative of the average weight for the box no later than thirty days after filing of the written notification by the signatory.

BOX-WEIGHT CHART.—SUSPENSION OF ANTIDUMPING INVESTIGATION ON FRESH TOMATOES FROM MEXICO

Box Type*	Layers	Size	Avg. Kg. weight	Avg. Lb. weight**	Reference Price	
					July 1–Oct. 22 $0.172/lb	Oct. 23–June 30 $0.2108/lb
Tomato (cherry)		12 Baskets	6.32	13.93	2.40	2.94
Tomato (cherry)	Bulk	Bulk	8.13	17.92	3.08	3.78
Tomato	2L	3 x 4				
Tomato	2L	4 x 4	10.78	23.77	4.09	5.01
Tomato	2L	4 x 5	10.81	23.83	4.10	5.02
Tomato	2L	5 x 5	10.43	22.99	3.96	4.85
Tomato	2L	5 x 6	9.71	21.41	3.68	4.51
Tomato	3L	6 x 6	13.33	29.39	5.05	6.19
Tomato	3L	6 x 7	12.92	28.48	4.90	6.00
Tomato	Bulk	25 lbs.***	12.15	26.79	4.61	5.65
Tomato	1L	Long Box	7.41	16.34	2.81	3.44
Tomato (Green)	Bulk	Small—20 lb.	8.16	17.99	3.09	3.79
Tomato Grape	Bulk	20 lb				
Tomato Grape	Bulk	10 lb				
Tomato Grape	Clam Shell	12 Baskets—12 oz				
Tomato Grape	Clam Shell	12 Baskets—10 oz				
Tomato Cluster		11 lb. Euro				
Tomato Cluster	1L	11 lb. Flat				
Tomato Club Pack	1L	5 lb				

* Applicable regardless of production method (*e.g.,* field grown or greenhouse grown).
** Conversion factor from kg. to lb. based on 1 kg.= 2.20462 lbs.
*** Also applicable to 4/7 bushel cartons.

Appendix D—Suspension of Antidumping Investigation—Fresh Tomatoes from Mexico—Procedures for Making Adjustments to the Sales Price Due to Certain Changes in Condition After Shipment

The purpose of this appendix is to explain the procedures for making adjustments to the sales price of signatory tomatoes due to certain changes in condition after shipment, such that the sales price for any tomatoes accepted in a lot[1] do not fall below the reference price. The procedures outlined in this appendix only apply if the adjustment reduces the net sales price below the reference price.

As explained in Appendix A of the Agreement, the term ''reference price'' refers to the price F.O.B. from the Selling Agent. The reference price includes all palletizing and cooling charges incurred prior to shipment from the Selling Agent. The actual movement or handling expenses beyond the point of entry into the United States (*e.g.*, McAllen, Nogales, Otay Mesa) must be added to the reference price and must reflect the cost for an arm's-length transaction. The charts below contain examples of the minimum common trucking charges the USDA observed for the 2002 winter season.

F.O.B. McAllen to:	Los Angeles	New York	Chicago
Rate ($US) / Per Truckload	$800	$2000	$1200

F.O.B. Nogales to:	Los Angeles	New York	Chicago
Rate ($US) / Per Truckload	$800	$3500	$2400

Parties should refer to *http://www.ams.usda.gov/fv/mncs/fvwires.htm* to obtain examples of common trucking charges pertinent to the current season. Where the Selling Agent sells through an affiliated party, the transfer price from the Selling Agent to the affiliate must be at or above the reference price and any subsequent sale to an unaffiliated party must include the actual cost of markups (*e.g.*, trucking charges) that reflect arm's-length costs. For guidance on the trucking-charge markup for such resales, parties should refer to *http://www.ams.usda.gov/fv/mncs/fvwires.htm* to obtain common trucking charges pertinent to the current season.

Appendix G of the Agreement outlines specific actions that signatories should take to ensure that their efforts to abide by the Agreement are upheld in any claims taken to the U.S. Department of Agriculture under the Perishable Agricultural Commodities Act.

To facilitate the verification of claims for changes in condition after shipment, the contract between the signatory and the Selling Agent must establish that claims be resolved and all paper work be completed within fifteen business days after the USDA inspection unless the claim is referred to PACA for mediation. When filing quarterly certifications with the Department, signatories should report the number of lots on which claims for condition defects were granted, the total volume of tomatoes destroyed or donated, and the total value of claims granted. Signatories can obtain from the Department's website a copy of the suggested form for submitting the quarterly certification information. See ''Quarterly Certification'' at *http://ia.ita.doc.gov/tomato/suggested_forms/*.

A. Contractual Terms for Rejecting All or Part of a Lot

1. A USDA inspection certificate must be provided to support claims for rejection of all or part of a lot. Further, no adjustments will be made for failure to meet suitable shipping conditions unless supported by an unrestricted USDA inspection.

2. If the USDA inspection indicates that the lot has: 1) over 8% soft/decay condition defects; 2) over 15% of any one condition defect; or 3) greater than 20% total condition defects, the receiver may reject the lot or may

[1] For these purposes, a lot is defined as a grouping of tomatoes in a particular shipment that is distinguishable by packing type.

accept a portion of the lot and reject the quantity of tomatoes lost during the salvaging process. In those instances, price adjustments will be calculated as described below. For purposes of this Agreement, a condition defect is any defect listed in the chart in part A.6. below. When a lot of tomatoes has condition defects in excess of those outlined above as documented on a USDA inspection certificate, the documented percentage of the tomatoes with condition defects are considered DEFECTIVE tomatoes.

3. No adjustments will be made for failure to meet suitable shipping conditions if the USDA inspection certificate does not indicate one of the condition thresholds outlined above.

4. The USDA inspection must be called for no more than six hours from the time of arrival at the destination specified by the receiver and be performed in a timely fashion thereafter. If there is more than one USDA inspection on a given lot, the inspection certificate corresponding to the first inspection is the one that will be used for making any adjustment to the sales price. However, if an appeal inspection is conducted, it will supercede the first inspection, as long as the appeal inspection is requested within a reasonable amount of time from the first inspection.

The first receiver of the product, regardless of whether that receiver is acting as an agent or a broker for an unrelated purchaser or whether the receiver is the unrelated purchaser acting on its own right, must specify the city/metropolitan area of the destination of the product. The inspection will take place at the destination of delivery as specified prior to shipment.

No adjustments will be granted for a USDA inspection at a destination which is different from the destination specified by the first receiver of the product. In the event that the first receiver does not specify the city/metropolitan area of the destination of the product, the six-hour period within which an inspection may be requested will begin to run at such time as title to the product transfers to the unrelated purchaser, for example, upon loading of the product at the first handler's (importer's) warehouse in an F.O.B. transaction and upon delivery of the product to the first buyer's warehouse in a delivered sale.

A person or company shall be considered an agent or broker for an unrelated purchaser: (1) when that person or company falls within the description of types of broker operations set forth in 7 CFR 46.27; or (2) have provided a broker's memorandum of sale as set forth in 7 CFR 46.28(a). The following paragraphs apply if a broker or dealer is involved in the transaction.

A broker, unlike a dealer, does not take ownership or control of the tomatoes but arranges for delivery directly to the vendor or purchaser. Because a broker never takes ownership or control over the tomatoes, the customer and not the broker may request an inspection, and only the customer is entitled to any resulting adjustments. The inspection would take place at the customer's destination, as specified in the broker's contract with the Selling Agent.

When a dealer is involved in the sale, the destination of delivery stated in the contract is where the inspection is to take place. If the dealer does not specify the destination of delivery, the default destination of delivery is the warehouse of the Selling Agent. With respect to a lot of tomatoes that is owned or controlled by a dealer, it is the responsibility of the dealer to request an inspection of the tomatoes in his possession in a timely manner, if he deems it necessary. If the dealer does not request an inspection in a timely manner (*i.e.*, within six hours from the time of arrival at the destination specified by the dealer) and resells the tomatoes to a third party, which does request an inspection, the dealer is then responsible for all costs and adjustments pertaining to the inspection and the condition or quality of the tomatoes.

5. Under this Agreement, adjustments to the sales price of signatory tomatoes will be permitted only for the condition defects identified in the table below and for no other defects.

Condition Defects

(1) Sunken & Discolored Areas
(2) Sunburn
(3) Internal Discoloration
(4) Freezing Injury
(5) Chilling Injury
(6) Alternaria Rot
(7) Gray Mold Rot
(8) Bacterial Soft Rot
(9) Soft/Decay

6. In calculating the transaction price for lots subject to an adjustment claim for condition defects, as defined above, the tomatoes classified as DEFECTIVE will be treated as rejected and as not having been sold.

B. Contractual Terms for Rejection of Partial Loads

If the lot contains condition defects greater than those outlined above and the receiver does not reject the entire lot of tomatoes, the Department will factor certain adjustments into the transaction price, provided that the following conditions apply:

1. The price invoiced to and paid by the receiver for the accepted tomatoes must not fall below the reference price.

2. The Selling Agent may reimburse the receiver for actual destruction costs associated with the DEFECTIVE tomatoes. If properly documented, these expenses will not be considered in the calculation of the price of the accepted tomatoes.

3. The Selling Agent may reimburse the receiver for the portion of freight expenses allocated to the DEFECTIVE tomatoes. If properly documented, these expenses will not be considered in the calculation of the price of the accepted tomatoes.

4. If the Selling Agent follows the guidelines outlined below, it may reimburse the receiver for repacking charges directly associated with salvaging reconditioning the lot. If properly documented, these expenses will not be considered in the calculation of the price of the accepted tomatoes.

a. If the salvaging and reconditioning activity is performed by a party unaffiliated with the Selling Agent's customer the fee charged for the service may be reimbursed if the Selling Agent's customer can provide evidence for such costs *i.e.,* specifically, proof-of-payment documentation for the invoice from the repacker).

b. If the salvaging and reconditioning activity is performed by the Selling Agent's customer or a party affiliated with the Selling Agent, the direct labor costs or, in lieu thereof, one-half of the ordinary and customary repacking charges may be reimbursed. To substantiate such costs the Selling Agent's customer or party affiliated with the Selling Agent must provide detailed records of the labor cost incurred for repacking or, where applicable, evidence of the ordinary and customary repacking costs.

5. The Selling Agent may reimburse the receiver for the inspection fees listed on the USDA inspection certificate. If properly documented, these expenses will not be considered in the calculation of the price of the accepted tomatoes.

6. Any reimbursements from, by, or on behalf of the Selling Agent that are not specifically mentioned in items B.2., B.3., B.4., or B.5. above, or that are not properly documented, will be factored into the calculation of the price for the accepted tomatoes.

7. The receiver may not resell the DEFECTIVE tomatoes. The receiver may choose to have the DEFECTIVE tomatoes destroyed, donated to non-profit food banks, or returned to the Selling Agent. The DEFECTIVE tomatoes may not be sold.[2]

8. In addition, for each transaction involving adjustments due to changes in condition after shipment the Selling Agent must obtain/maintain the following documents/information:

—Shipper name.
—Shipping manifest.
—Details of the shipper invoice, including invoice number, date, brand, tomato type, quantity (boxes), and value.
—Documentation supporting the freight expenses incurred for the original shipment.
—USDA inspection certificate.
—Detailed listing of the expenses incurred in salvaging the non-DEFECTIVE tomatoes and documentation supporting the expenses.
—Description of the destruction or donation process and documentation from the landfill or food bank.
—Proof-of-payment documentation for any destruction costs.
—A statement that "No monies or other compensation was received for the destroyed or donated tomatoes."
—Signature of a responsible official at the receiver.

C. Contractual Terms for Rejection of Full Loads

In cases where the receiver has rejected the full lot of tomatoes based on condition defects, the Selling Agent may choose to have the entire lot destroyed, donated to non-profit food banks, or returned. If the entire lot is destroyed or donated, the Selling Agent will require the receiver to provide the documentation noted above for partial-lot

[2] Tomatoes for processing must be handled in accordance with the guidelines set forth in Appendix F of the Agreement.

rejections. Further, the Selling Agent may reimburse the receiver for ordinary and customary expenses that the receiver incurred with respect to the lot, including those expenses associated with the destruction or donation process, as long as the Selling Agent obtains the support documentation specified above under B.8. The Department will treat such transactions as ''non-sales'' provided that adequate support documentation is available.

Alternatively, the Selling Agent may sell the entire rejected lot to another receiver. In that case, the price paid must be not less than the reference price plus all costs incurred (*e.g.*, transportation, commissions, etc.) from the F.O.B. port of entry to the final receiver. If the final receiver finds that the lot contains condition defects greater than those outlined above, it shall follow the directions stated above with respect to rejection of partial loads.

D. Contractual Terms for Partial vs. Unrestricted Lot Inspections

As explained in part A.1. above, the Department will only allow adjustments to the transaction price for condition defects if the USDA inspection is unrestricted. During the time between the call for inspection and the arrival of the USDA inspector, the receiver might sell part of the lot and, therefore, by the time the USDA inspector arrives, that part is not available for inspection. If the USDA inspector is allowed full access to the partial lot, the Department will consider this an unrestricted partial-lot inspection. Alternatively, if the USDA inspector is not allowed full access to the partial lot, the Department will deem it a restricted inspection. No adjustments will be made for failure to meet suitable shipping conditions if the USDA inspection is restricted. For purposes of this Agreement, when calculating an adjustment for failure to meet suitable shipping conditions where an unrestricted partial-lot inspection has taken place, only the portion of the lot inspected is eligible for adjustment. The portion of the lot that the receiver sold prior to the inspection will not be eligible for an adjustment based on the USDA inspection.

For example, before the USDA inspector arrives, the receiver sells 140 boxes of 5x5s from a lot identified as 160 5x5s on the invoice. When the USDA inspector arrives the receiver requesting the inspection provides full access to the partial lot within its possession. The inspector finds that the partial lot of 20 5x5s has soft/decay condition defects of 25 percent and notes this on this inspection certificate. Under the Agreement, only the 20 5x5s are eligible for an adjustment for failure to meet suitable shipping conditions, and the 140 5x5s that the receiver already sold will not be eligible for an adjustment based on the USDA inspection.

Appendix E—Suspension of Antidumping Investigation—Fresh Tomatoes from Mexico—Contractual Arrangement for Documenting Sales of Signatory Merchandise To Canada

Based on our experience in this proceeding, it is common practice for the signatory's Selling Agent to enter the merchandise into the United States for consumption and then re-export it to Canada. The purpose of this appendix is to: 1) outline the process that each signatory of this Agreement must follow to ensure that the Selling Agent properly documents sales to Canada as such and 2) ensure that the signatory notifies the Canadian customer that any resales of its merchandise from Canada into the United States must be in accordance with the terms of this Agreement.

To document sales of Mexican tomatoes to Canada properly, this Agreement requires that such transactions be made pursuant to a contractual arrangement where each signatory requires that the Selling Agent that facilitates the sale to Canada maintain the following information in its files:

- Signatory name and identification number;
- Shipping manifest;
- An invoice identifying sale date, brand, tomato type, quantity (boxes), and value; and
- Entry documentation from Canadian Customs (*i.e.*, Landing Form).

If a signatory to the Agreement or its Selling Agent does not document a sale to Canada in accordance with the procedures outlined above, the Department will consider the transaction a U.S. sale.

We also require signatories to ensure that the Canadian customer is notified that any resale of the signatory merchandise from Canada into the United States must be in accordance with the terms of the Agreement and that any movement or handling expenses beyond the point of export from Mexico must be added to the reference price and must reflect the actual cost for an arm's-length transaction. Signatories can obtain from the Department's website a copy of the suggested form for providing such notification. See ''Form for Notifying Canadian Customer That Resales of Signatory Merchandise Into the United States Are Covered by the Terms of the December 2002 Suspension Agreement'' at *http://ia.ita.doc.gov/tomato/suggested_forms/*. Further, through contractual arrangement each signatory must require that the Selling Agent maintain evidence in its files to document that the Canadian customer was notified that any resales of the signatory merchandise from Canada into the United States must be in accordance with the terms of the Agreement.

Appendix F—B Suspension of Antidumping Investigation—Fresh Tomatoes From Mexico—Procedure Signatories Must Follow for Selling Subject Merchandise for Processing

Sales to the United States of signatory tomatoes for processing must be:

1. Sold directly to a processor (in other words, the first purchaser in the United States of tomatoes for processing must be an actual processor);

2. Accompanied by an ''Importer's Exempt Commodity Form''—Form FV–6, within the meaning of 7 CFR section 980.501(a)(2) and 980.212(I), should be used for all tomatoes for processing that are covered by the Florida Marketing Order; tomatoes for processing that are not covered by the Florida Marketing order (*e.g.*, romas, grape tomatoes, greenhouse tomatoes and any tomatoes that are entered during the part of the year that the Florida Marketing Order is not in effect) must be accompanied by the ''December 2002 Suspension Agreement—Tomatoes for Processing Exemption Form''. The exempt commodity form must be presented to U.S. Customs at the time of crossing at the port of entry into the United States and both the Selling Agent and the processor must maintain a copy of the form.

3. Shipped in a packing form that is not typical of tomatoes for the fresh market (*e.g.*, bulk containers in excess of 50 lbs)—examples of typical fresh-market packing forms are identified in the Box-Weight Chart in Appendix C of the Agreement; and

4. Clearly labeled on the packaging as ''Tomatoes for Processing''.

Signatories can obtain from the Department's website an example of the ''December 2002 Suspension Agreement—Tomatoes for Processing Exemption Form''. See *http://ia.ita.doc.gov/tomato/suggested_forms/*. If a party in the United States facilitates the transaction, through contractual arrangement each signatory must require that the party follow the procedures outlined above.

Appendix G—Suspension of Antidumping Investigation—Fresh Tomatoes From Mexico—Specific Actions That Signatories Should Take to Ensure That Their Efforts To Abide by the Agreement Are Upheld in Any Claims Taken to the U.S. Department of Agriculture Under the Perishable Agricultural Commodities Act

This appendix provides guidance on the specific actions signatories can take to ensure that their efforts to abide by the Agreement are upheld in any claims taken to the Department of Agriculture under the Perishable Agricultural Commodities Act (PACA).

The Chief of the Department of Agriculture's PACA branch, James R. Frazier, has confirmed that this Agreement is enforceable under PACA regulations and PACA's claim settlement process. According to Mr. Frazier, in settling a claim, PACA will uphold actions taken by a signatory or a signatory's representative (collectively ''signatory'') to comply with the Agreement to the extent that the sales contract for the transaction at issue establishes that the sale is subject to the terms of the Agreement. In other words, if, prior to making the sale, the signatory, or the Selling Agent acting on behalf of the signatory through a contractual arrangement, informs the customer that the sale is subject to the terms of the Agreement and identifies those terms, PACA will recognize the identified terms of the Agreement as integral to the sales contract. In particular, signatories should inform their customers that their contractual agreement to allow defect claim adjustments is limited in accordance with the Agreement, including:

- Claims for adjustments must be supported by an unrestricted USDA inspection called for no more than six hours from the time of arrival at the receiver and performed in a timely fashion thereafter.

• The USDA inspection must find that the condition defects exceed the thresholds outlined in Appendix D above.

• Any price adjustments will be limited to the actual percentage of condition defects as documented by a USDA inspection certificate.

• The price adjustments will be limited to actual destruction costs, the allocated freight expense, and salvaging and reconditioning expenses calculated in accordance with Appendix D above.

• The customer may not resell any defective tomatoes. Instead, they must be destroyed, returned or donated to a non-profit food bank. Signatories should provide a copy of the Agreement to any customer which may be unfamiliar with its terms or which has questions about those terms.

The process by which a signatory could provide evidence to PACA that its sales contracts were made subject to the terms of the Agreement including, in particular, those terms listed above is outlined below.

• The signatory should maintain written documentation demonstrating that it had informed its customers and the customers accepted that the sales were subject to the terms of the Agreement prior to issuing the invoice. A signed contract to that effect would be the best evidence of that fact; however, a purchase by the customer after being informed of the relevance of the Agreement is evidence of acceptance.

• The signatory should send letters to its customers via registered mail, return receipt requested, informing the customers that, as a signatory to the Agreement, all of the signatory's sales are subject to the terms of the Agreement and that, by purchasing from them, the buyer agrees to those terms. The letter should also indicate that the signatory's sales personnel do not have authority to alter the terms of the Agreement.

• In addition, the signatory should include a statement on its order confirmation sheets that its contract with the buyer is subject to the terms of the Agreement as detailed in the signatory's ''pre-season'' letter and maintain a copy of the order confirmations and fax receipts demonstrating that they were sent to the customer prior to making the sale. If the sale is to a first-time purchaser that did not receive a ''pre-season'' letter, a letter should be supplied to the buyer prior to making a sale.

• The signatory should instruct its sales personnel to inform customers making purchases by telephone or at the loading dock that the sale is subject to the terms of the Agreement and its restrictions on price adjustments and, by purchasing from them, the buyer agrees to those terms. In fact, the sales personnel should provide a copy of the letter to the customer and, ideally, have the customer acknowledge receipt of the letter, in writing, prior to making the sale. Such an established practice will help to ensure that even new customers are informed properly of the terms of sale prior to completing a contract.

PACA does not require any one particular form of written documentation but USDA officials have confirmed that, if signatories maintain written evidence demonstrating that their customers were informed that their sales were made subject to the terms of the Agreement prior to sale, PACA will recognize those terms as part of the sales contract.

[FR Doc. 02–31618 Filed 12–11–02; 3:41 pm]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 021028258–2258–01]

Notice of Intent To Disseminate Infrared Spectral Library

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The National Institute of Standards and Technology has recently announced its intent to add condensed phase infrared spectra to its current library of gas phase infrared spectra. NIST plans on making this library widely available via the Internet for scientists, engineers and other parties interested in gas phase infrared spectra. This notice solicits comments concerning proposed plans for disseminating this new data through the Internet.

DATES: Comments must be received by January 15, 2003.

ADDRESSES: Comments should be sent to the attention of Dr. Stephen Stein at the National Institute of Standards and Technology, Mail Stop 8380, 100 Bureau Drive, Gaithersburg, MD, 20899–8380.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen Stein by writing to the above address or by e-mail at *stephen.stein@nist.gov* or by telephone at (301) 975–2444.

SUPPLEMENTARY INFORMATION: On August 8, 2002, NIST published a notice in the **Federal Register** entitled ''Notice of Intent to Update Infrared Spectral Library'', in which comments were invited concerning the addition of approximately 10,000 digitized, condensed-phase infrared spectra to an existing NIST gas-phase collection. NIST received two comments from one individual. One of those comments made to that notice raised the issue of what methods NIST will use to disseminate the database. Based upon that comment, NIST decided that the means of data dissemination should be opened for discussion. As a result, NIST has decided to re-open the comment period and request public comments on the issue of the means of data dissemination by NIST. Therefore, in this notice, we invite interested parties to provide comments concerning possible means of dissemination of this new data. Current NIST plans are to publish this data on the Internet via the NIST WebBook (*http://webbook.nist.gov/*) in the same manner as currently employed for the gas-phase infrared data. This data is made freely available on a single-spectrum lookup basis, with individual spectra selected for display by users. No library searching or full or partial database downloading capabilities are planned.

Dated: December 4, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–31617 Filed 12–13–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Proposed Information Collection; Comment Request; Public Telecommunications Facilities Program Grant Monitoring

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A).

DATES: Written comments must be submitted on or before February 14, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 1401 Constitution Avenue, NW., Washington, DC 20230 (or via the Internet *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Clifton Beck, NTIA, Room H–4888, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of the Public Telecommunications Facilities Program is to assist, through matching funds, in the planning and construction of public telecommunications facilities in order to achieve the following objectives:

• Extend delivery of public telecommunications services to as many citizens in the United States as possible by the most efficient and economical means, including the use of broadcast and non-broadcast technologies;

• Increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and

• Strengthen the capability of existing public radio and television stations to provide public telecommunications services to the public.

II. Method of Collection

Paper form and the Internet.

III. Data

OMB Number: 0660–0001.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions, state or local government.

Estimated Number of Respondents: 1,950.

Estimated Time Per Response: 3 hours.

Estimated Total Annual Burden Hours: 6,268.

Estimated Total Annual Cost to the Public: 0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to the notice will be summarized and/or included in the request for OMB approval of the information collection; they will also become a matter of public record.

Dated: December 10, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–31558 Filed 12–13–02; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Statutory Invention Registration

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 14, 2003.

ADDRESSES: Direct all written comments to Susan K. Brown, Records Officer, Office of Data Architecture and Services, Data Administration Division, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231; by telephone at (703) 308–7400; by e-mail at *susan.brown@uspto.gov*; or by facsimile at (703) 308–7407.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office (USPTO), Washington, DC 20231; by telephone at (703) 308–5107; or by e-mail at *bob.spar@uspto.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

A statutory invention registration is not a patent. It has the defensive attributes of a patent but does not have the enforceable attributes of a patent. In other words, a person occasionally invents something solely for personal use (not for production or sale) and does not want to go through the effort and expense of obtaining a patent on the invention. At the same time, the inventor wants to prevent someone else from later obtaining a patent on a like invention. In that situation, the inventor can register a statutory invention and have it published. Once published, it cannot be claimed by another person.

37 U.S.C. 157 authorizes the United States Patent and Trademark Office (USPTO) to publish a statutory invention registration containing the specifications and drawings of a regularly filed application for a patent without examination, providing the patentee meets all the requirements for printing, waives the right to receive a patent on the invention within a certain period of time prescribed by the USPTO, and pays all application, publication and other processing fees.

The USPTO administers 35 U.S.C. 157 through 37 CFR 1.293–1.297. Under these rules, an applicant for an original patent may request, at any time during the pendency of the applicant's pending complete application, that the specifications and drawings be published as a statutory invention registration. Any request for a statutory invention registration may be examined to determine if the requirements have been met, if the subject matter of the application is appropriate for publication, and if the requirements for publication are met.

The public may petition the USPTO to review rejection decisions within one month or such other time as is set forth in the decision refusing publication. The public may also petition the USPTO to withdraw a request to publish a statutory invention registration prior to the date of the notice of the intent to publish.

If the request for a statutory invention registration is approved, a notice to that effect will be published in the USPTO's Official Gazette. Each statutory invention registration published will include a statement relating to the attributes of a statutory invention registration.

A Change Worksheet was approved by the Office of Management and Budget (OMB) on November 29, 2001, which decreased the number of responses for this collection by 10 (from 83 to 73) due to the availability of 18-month publications of patent applications. Consequently, the total burden hours were also reduced by 4, (from 33 to 29) as a program change.

The public uses form PTO/SB/94, Request for Statutory Invention Registration, to request and authorize publication of a regularly-filed patent application as a Statutory Invention Registration, to waive the right to receive a United States patent on the same invention claimed in the identified patent application, to agree that the waiver will be effective upon publication of the statutory invention registration, and to state that the identified patent application complies with the requirements for printing. No forms are associated with the petition for a review of the refusal to publish a statutory invention registration or the petition to withdraw the request for publication of a statutory invention registration.

II. Method of collection

By mail, facsimile, or hand delivery to the USPTO when the applicant or agent files a statutory invention registration with the USPTO.

III. Data

OMB Number: 0651–0036.

Form Number(s): PTO/SB/94.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; the Federal Government; and state, local or tribal governments.

Estimated Number of Respondents: 73 responses per year.

Estimated Time Per Response: The USPTO estimates that it will take approximately 24 minutes each to gather, prepare, and submit the request for statutory invention registration, the petition to review the rejection decision, and the petition to withdraw the publication request, depending upon the complexity of the situation. This collection contains 1 form and 2 petitions.

Estimated Total Annual Respondent Burden Hours: 29 hours per year.

Estimated Total Annual Respondent Cost Burden: $7,308. Using the professional hourly rate of $252 per hour for associate attorneys in private firms, the USPTO estimates $7,308 per year for salary costs associated with respondents.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Statutory Invention Registration	24 minutes	70	28.0
Petition to Review Rejection Decision	24 minutes	1	0.4
Petition to Withdraw Publication Request	24 minutes	2	0.8
Total		73	29.2

Estimated Total Annual Nonhour Respondent Cost Burden: $107,146. There are no capital start-up costs or maintenance costs associated with this information collection. However this collection does have postage costs and filing fees.

The public may submit the paper forms and petitions in this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that the average first-class postage cost for a mailed submission will be 49 cents, and that customers filing the documents associated with this information collection may choose to mail their submissions to the USPTO. Therefore, the USPTO estimates that up to 73 submissions per year may be mailed to the USPTO at an average first-class postage cost of 49 cents, for a total postage cost of $36.

There is annual nonhour cost burden in the way of filing fees associated with this collection. Since the filing fees have not previously been included in this collection, the total number of filings is being used to calculate these costs.

The estimated filing costs for this collection of $107,110 are calculated in the accompanying chart.

Item	Response (a)	Filing fee ($) (b)	Total non-hour cost burden (a) × (b)
Statutory Invention Registration (requested prior to mailing of first office action, 37 CFR 1.17(n))	24	$920.00	$22,080.00
Statutory Invention Registration (requested after mailing of first office action, 37 CFR 1.17(o))	46	1,840.00	84,640.00
Petition to Review Rejection Decision	1	130.00	130.00
Petition to Withdraw Publication Request	2	130.00	260.00
Total	73		107,110.00

The USPTO estimates that the total non-hour respondent cost burden for this collection in the form of postage costs and filing fees amounts to $107,146.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: December 9, 2002.

Susan K. Brown,

Records Officer, USPTO, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 02–31574 Filed 12–13–02; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the African Growth and Opportunity Act (AGOA)

December 10, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that handloomed fabric made in Malawi and handmade articles made from such handloomed fabric that are made in Malawi qualify for preferential treatment under Section 112(a) of the African Growth and

Opportunity Act (AGOA). Therefore, imports of eligible products from Malawi with an appropriate AGOA Visa will qualify for duty-free treatment under the AGOA.

EFFECTIVE DATE: December 23, 2002.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. No. 106-2000)(AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. In a letter to the Commissioner of Customs dated January 18, 2001, the United States Trade Representative directed Customs to require that importers provide an appropriate export visa from a beneficiary sub-Saharan African country to obtain preferential treatment under section 112(a) of the AGOA (66 FR 7837). The first digit of the visa number corresponds to one of nine groupings of textile and apparel products that are eligible for preferential tariff treatment. Grouping ''9'' is reserved for handmade, handloomed, or folklore articles.

Under Section 2 of Executive Order 13191 of January 17, 2001, CITA is authorized to ''consult with beneficiary sub-Saharan African countries and to determine which, if any, particular textile and apparel goods shall be treated as being handloomed, handmade, or folklore articles'' (66 FR 7272). Consultations with Malawi were held on November 13, 2002, and CITA has now determined that handloomed fabrics produced in and exported from Malawi and handmade articles produced in and exported from Malawi made from such handloomed fabrics are eligible for preferential tariff treatment under section 112(a) of the AGOA. In the letter published below, CITA directs the Commissioner of Customs to allow entry of such products of Malawi under Harmonized Tariff Schedule provision 9819.11.27, when accompanied by an appropriate export visa in grouping ''9''.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 10, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Department of the Treasury, Washington, DC 20229.Dear Commissioner: The Committee for the Implementation of Textiles Agreements (CITA), pursuant to Sections 112(a) of the African Growth and Opportunity Act (Title I of Pub. L. No. 106-200) (AGOA) and Executive Order 13101 of January 17, 2001, has determined that, effective on December 23, 2002, handloomed fabric produced in Malawi and handmade articles produced in Malawi from such handloomed fabric shall be treated as being handloomed, handmade, or folklore articles under the AGOA, and that an export visa issued by the Government of Malawi for Grouping ''9'' is a certification by the Government of Malawi that the article is handloomed, handmade, or folklore. CITA directs you to permit duty-free entry of such articles accompanied by the appropriate visa and entered under heading 9819.11.27 of the Harmonized Tariff Schedule of the United States.

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–31572 Filed 12–13–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability for the Revised Draft Environmental Impact Statement/ Environmental Impact Report for the Pier J South Maine Terminal Expansion Project, Los Angeles County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers, Los Angeles District, Regulatory Branch, in coordination with the Port of Long Beach, has completed a Revised Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Pier J South Marine Terminal Expansion project. The Port of Long Beach requires authorization pursuant to section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act for 115 acres of landfill in three phases, dredging up to 10,000,000 cubic yards of sediment, construction of a new concrete pile-supported wharf, new terminal buildings and a new rail yard.

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the Revised Draft EIS/EIR should be directed to Dr. Aaron O. Allen, Senior Project Manager, Regulatory Branch, U.S. Army Crops of Engineers, P.O. Box 532711, Los Angeles, CA, 90053–2325, phone: (805) 585–2148.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison.

[FR Doc. 02–31453 Filed 12–13–02; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory 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 January 15, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren.Whittenberg@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 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: December 11, 2002.

Joseph Schubart,

Acting Leader, Regulatory Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Reinstatement.

Title: Application for 34 CFR part 602 The Secretary's Recognition of Accrediting Agencies.

Frequency: Annually and every 5 years.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 61.

Burden Hours: 1,036.

Abstract: This information is needed to determine if an accrediting agency complies with the Criteria for Recognition and should be recognized by the Secretary.

Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or directed to her e-mail address *Vivian.Reese@ed.gov.* Requests may also be 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 Joseph Schubart at his e-mail address *Joe.Schubart@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. 02–31577 Filed 12–13–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket Nos. EA–272]

Application To Export Electric Energy; Advantage Energy, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Advantage Energy, Inc. (AEI) has applied to export electric energy from the United States to Canada, pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before January 15, 2003.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (Fax 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–2793.

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. 824a(e)).

On November 14, 2002, AEI applied to the Office of Fossil Energy, of the Department of Energy (DOE) for authority to export electric energy from the United States to Canada. AEI was incorporated in New York in 1997 and operates as a power marketer and broker of electric power with its principal place of business in Buffalo, New York.

In FE Docket No. EA–272, AEI proposes to export electric energy to Canada and to arrange for the delivery of those exports to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Eastern Maine Electric Cooperative, International Transmission Co., Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, Inc., New York Power Authority, Niagara Mohawk Power Corp., Northern States Power Company and Vermont Electric Transmission Company. AEI will purchase the power to be exported from electric utilities and federal power marketing agencies as defined in the FPA.

The construction of each of the international transmission facilities to be utilized by AEI has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person 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 §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the AEI application to export electric energy to Canada should be clearly marked with Docket EA–272. Additional copies are to be filed directly with Kevin H. Schoener, Executive Vice President/COO, 3556 Lake Shore Road, Suite 120, Buffalo, NY 14219.

A final decision will be made on this application after the environmental impact has 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 or by accessing the Fossil Energy Home Page at *http://www.fe.doe.gov.* Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on December 9, 2002.

Anthony Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 02–31584 Filed 12–13–02; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 02–79–LNG, et al.]

Marathon LNG Marketing LLC, et. al; Orders Granting and Vacating Authority To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during October 2002, it issued orders granting and vacating authority to import and export natural gas, including liquefied natural gas. These orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on December 4, 2002.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix

ORDERS GRANTING AND VACATING IMPORT/EXPORT AUTHORIZATIONS

[DOE/FE Authority.]

Order No.	Date issued	Importer/Exporter FE Docket No.	Import volume	Export volume	Comments
1827	11–5–02	Marathon LNG Marketing LLC, 02–79–LNG	116 Bcf		Import LNG from various international sources beginning on November 5, 2002, and extending through November 4, 2004.
1828	11–7–02	Fortuna (U.S.) Inc., 02–80–NG	75 Bcf		Import and export a combined total of natural gas from and to Canada, beginning on December 1, 2002, and extending through November 30, 2004.
1829	11–21–02	Engage Energy America LLC, 02–81–LNG	1,000 Bcf	1,000 Bcf	Import natural gas from Canada, including liquified natural gas, and export natural gas to Canada, beginning on December 1, 2002, and extending through November 30, 2004.
1830	11–25–02	Pemex Gas Y Petroquimica Basica, 02–83–NG.	1.1 Tcf		Import and export a combined total of natural gas from and to Canada, beginning on November 25, 2002, and extending through November 24, 2004.
1830	11–25–02	Pemex Gas Y Petroquimica Basica, 00–93–NG.			Vacate blanket import and export authority. Order No. 1656.
1831	11–29–02	Keyspan Gas East Corporation, 02–85–NG	2 Bcf		Import and export a combined total of natural gas from and to Canada, beginning on January 15, 2003, and extending through January 14, 2005.

[FR Doc. 02–31585 Filed 12–13–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2835]

New York State Electric & Gas Corporation; Notice of Authorization for Continued Project Operation

December 10, 2002.

On October 27, 2000, New York State Electric & Gas Corporation, licensee for the Rainbow Falls Project No. 2835, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2835 is located on the Ausable River and Black Brook in Clinton and Essex Counties, New York.

The license for Project No. 2835 was issued for a period ending November 30, 2002. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2835 is issued to New York State Electric & Gas Corporation for a period effective December 1, 2002, through November 30, 2003, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before December 1, 2003, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that New York State Electric & Gas Corporation is authorized to continue operation of the Rainbow Falls Project No. 2835 until such time as the Commission acts on its application for subsequent license.

Magalie R. Salas,

Secretary.

[FR Doc. 02–31596 Filed 12–13–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2852–015]

New York State Electric & Gas Corporation, New York; Notice of Availability of Environmental Assessment

December 11, 2002.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy projects staff have reviewed the application for a nonpower license for the Keuka Hydroelectric Project, located between Waneta Lake and Lamoka Lake impoundments, and Keuka Lake in Steuben and Schuyler Counties, New York and have prepared an Environmental Assessment (EA) for the project. The EA contains the staff's analysis of the potential environmental effects of the proposed action by the applicant, the proposed action with additional staff-recommended measures, and no-action.

A copy of the EA is available for review in the public Reference Branch, Room 2–A, of the Commission's office at 888 First Street, NE., Washington, DC 20426. The EA may also be viewed on the web at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659.

Any comments should be filed within 30 days from the date of this notice and addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix ''Keuka Hydroelectric Project, FERC No. 2852–015'' to all comments. Comments may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

For further information, contact Patti Leppert at (202)502–6034 or by E-mail at *patricia.leppert@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. 02–31597 Filed 12–13–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0334; FRL–7283–5]

Exposure Modeling Work Group; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Exposure Modeling Work Group (EMWG) will hold a 1–day meeting on December 17, 2002. This notice announces the location and time for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Tuesday, December 17, 2002, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Office of Pesticide Programs (OPP), Environmental Protection Agency, Crystal Mall #2, Room 311, 1921 Jefferson Davis Hwy., Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Michael R. Barrett, Environmental Fate and Effects Division (7507C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6391; fax number: (703) 308–6309; e-mail address: *barrett.michael@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0334. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crstal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

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

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

II. Background

The Exposure Modeling Workgroup meets on a roughly quarterly interval to discuss current issues in modeling pesticide fate, transport, and exposure to pesticides in support of risk assessments in a regulatory context.

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting to the person listed under **FOR FURTHER INFORMATION CONTACT**.

IV. Tentative Agenda

This unit provides tentative agenda topics for the 1–day meeting.

1. Welcome and introductions.
2. Old action items.

3. Brief Updates

- EPA's pesticide root zone model/exposure analysis modeling system (PRZM/EXAMS) model.
- Spray drift task force progress.
- Rice modeling.
- European union activities.
- United States Department of Agriculture (USDA) agricultural research service activities.

- Environmental fate data base.
- New meteorological files.
- Turf umbrella.
- WARP model.

4. Major Topics

- EFED water quality priorities for FY 2003 - themes for 2003.
- European Union activities: FOCUS ground water and surface water assessment methods, mitigation measures and processes for refining risk assessments.
- Prospective ground water data base - data reporting and formatting issues.
- USDA research service - efforts to address needs of regulators in their pesticide mitigation and modeling research, results of recent workshop.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 10, 2002.

Steven Bradbury,

Director, Environmental Fate and Effects Division, Office of Pesticide Programs.

[FR Doc. 02–31613 Filed 12–12–02; 9:03 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0072; FRL–7284–9]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from November 2, 2002 to November 19, 2002, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the docket ID number OPPT– 2002–0072 and the specific PMN number or TME number, must be received on or before January 15, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the 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 Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2002–0072. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

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

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

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number and specific PMN number or TME number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e- mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select'' search,'' and then key in docket ID number— OPPT–2002–0072. The system is an'' anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT–2002–0072 and PMN Number or TME Number. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT–2002–0072 and PMN Number or TME Number. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is 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 docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

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 of any technical information and/or data you used that 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 notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the specific PMN number you are commenting on in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from November 2, 2002, to November 19, 2002, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 37 PREMANUFACTURE NOTICES RECEIVED FROM: 11/02/02 TO 11/19/02

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0044	10/18/02*	01/16/03	Lambent Technologies	(S) Dispersant	(S) Glycerides, soya mono- and di-phosphates
P–03–0045	10/18/02*	01/16/03	Lambent Technologies	(S) Lubricant; mold release agent; emulsifier	(S) Glycerides, soya mono- and di, phosphates, sodium salts
P–03–0092	11/04/02	02/02/03	CBI	(G) Flame/fire retardant-open, non-dispersive use	(G) Phosphoric acid monoamine salt
P–03–0093	11/04/02	02/02/03	CBI	(G) Epoxy polymer for coatings and composites	(G) Polyglycidyl ether of (p-hydroxy styrene) novolak
P–03–0094	11/04/02	02/02/03	CBI	(G) Colorant for plastics	(G) Co-poly-2-methyl-1,5-pentane isophthalimide
P–03–0095	11/05/02	02/03/03	CBI	(G) Viscosity index improver	(G) Alkyl methacrylate copolymer
P–03–0096	11/05/02	02/03/03	Henkel Loctite Corporation	(S) A component of adhesive formulations for general industrial bonding applications	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha,alpha'-[1,3-phenylenebis[(1-methylethylidene) iminocarbonyl]]bis[.omega.-[[[[3-(trimethoxysilyl)propyl] amino]carbonyl]oxy]-
P–03–0097	11/05/02	02/03/03	CBI	(G) Viscosity index improver and pour point depressant	(G) Alkyl methacrylate copolymer
P–03–0098	11/04/02	02/02/03	The Dow Chemical Company	(S) Polymer used in foams and adhesives manufacture	(G) Blocked, isocyanate terminated urethane prepolymer
P–03–0099	11/05/02	02/03/03	CBI	(S) Industrial coatings	(S) 2-propenoic acid, 2-methyl-, butyl ester, polymer with butyl 2-propenoate, ethenylbenzene and 2,5-furandione
P–03–0100	11/04/02	02/02/03	CBI	(G) Reactant in thermoset coating degree of containment -- (c) open, non-dispersive use	(G) Amine polymer
P–03–0101	11/05/02	02/03/03	CBI	(G) Rheology modifying component of funtional fluid	(G) Aliphatic ester
P–03–0102	11/05/02	02/03/03	CBI	(G) Rheology modifying component of functional fluid	(G) Aliphatic esters
P–03–0103	11/05/02	02/03/03	CBI	(G) Synthetic industrial lubricant for contained use	(G) Pentaerythritol and dipentaerythritol mixed esters of branched and linear fatty acids
P–03–0104	11/06/02	02/04/03	CBI	(G) Agricultural inert	(G) Tristyryl phenol alkoxylate salt
P–03–0105	11/07/02	02/05/03	CBI	(G) Carrier oil component	(G) Hydrotreated petroleum distillate extract
P–03–0106	11/08/02	02/06/03	CBI	(G) Surface treatment agent	(G) Fluoropolyether derivative fluoronated payurethane resin
P–03–0107	11/08/02	02/06/03	Epson EL Paso, Inc.	(G) Binder resin for ink	(S) 2-propenoic acid, 2-methyl-, polymer with butyl 2-propenoate and ethenylbenzene, sodium salt
P–03–0108	11/12/02	02/10/03	CBI	(G) Textile colorant	(G) Substituted cyan acetic acid pentyl ester
P–03–0109	11/14/02	02/12/03	Morflex Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesives (radiation curable)	(G) Vinyl ether terminated polyester polymer
P–03–0110	11/14/02	02/12/03	Estron Chemical, Inc.	(G) Additive for coatings industry.	(G) Optsa/epoxy resin
P–03–0111	11/18/02	02/16/03	CBI	(G) Material for coating agent	(G) Modified polyvinylalcohol
P–03–0112	11/18/02	02/16/03	CBI	(S) Luminescent pigment used in safetymarking tape, signs, toys, novelties	(G) Alkaline earth aluminate, rare earth doped

I. 37 PREMANUFACTURE NOTICES RECEIVED FROM: 11/02/02 TO 11/19/02—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0113	11/18/02	02/16/03	CBI	(G) Use as a component of food packaging and other industrial uses.	(G) Modified evoh polymer
P–03–0114	11/18/02	02/16/03	CBI	(G) Use as a component of food packaging and other industrial uses.	(G) Modified evoh polymer
P–03–0115	11/18/02	02/16/03	CBI	(G) Use as a component of food packaging and other industrial uses	(G) Modified evoh polymer
P–03–0116	11/19/02	02/17/03	Reterra	(S) Intermediate for polyester resins	(G) Polyester polyol
P–03–0117	11/19/02	02/17/03	CBI	(G) Pastic additive	(G) Silicate
P–03–0118	11/19/02	02/17/03	Solutia Inc	(S) Binder for industrial coatings	(G) Epoxy modified alkyd resin
P–03–0119	11/19/02	02/17/03	Solutia Inc	(S) Binder for industrial coatings	(G) Polyurethane resin
P–03–0120	11/19/02	02/17/03	Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion
P–03–0121	11/19/02	02/17/03	Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion
P–03–0122	11/19/02	02/17/03	Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion
P–03–0123	11/19/02	02/17/03	Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion
P–03–0124	11/19/02	02/17/03	Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion
P–03–0125	11/19/02	02/17/03	Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion
P–03–0126	11/18/02	02/16/03	Scotia Ventures	(S) Paper coating additive; wet-end paper additive	(S) Ethanaminium, n,n,n-trimethyl-2-[(1-oxo-2-propenyl)oxy]-, chloride, polymers with hydrolyzed poly(vinyl acetate)

*Entry left over from the October 2002 report.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 22 NOTICES OF COMMENCEMENT FROM: 11/02/02 TO 11/19/02

Case No.	Received Date	Commencement/Import Date	Chemical
P–00–0899	11/13/02	11/01/02	(G) Urea alkoxy silane
P–00–1130	11/07/02	10/21/02	(G) Acetylenic alcohol
P–00–1131	11/07/02	10/15/02	(G) Alkynyl acetate
P–01–0173	11/13/02	11/06/02	(G) Silated urethane polymer
P–01–0529	11/13/02	11/04/02	(G) Organo aluminium complex
P–02–0207	11/07/02	10/30/02	(G) Quaternary salt
P–02–0234	11/04/02	10/26/02	(G) Sulphonated azo/hydrazo dye
P–02–0235	11/04/02	10/26/02	(G) Sulphonated azo/hydrazo dye
P–02–0515	11/19/02	11/13/02	(G) Silated urethane resin
P–02–0573	11/12/02	10/23/02	(G) Cycloaliphatic amine adducts
P–02–0613	11/06/02	10/20/02	(G) Polyacrylate resin
P–02–0623	11/19/02	10/14/02	(G) Substituted cyan acetic acid butylester and butoxyethylester
P–02–0624	11/19/02	10/14/02	(G) Substituted cyan acetic acid butylester and butoxyethylester
P–02–0716	11/04/02	10/23/02	(G) Butyl acrylate, polymer with styrene and methylamino chloride compounds, nitrate
P–02–0739	11/07/02	10/07/02	(G) Amine salt
P–02–0814	11/08/02	10/30/02	(G) Aliphatic unsaturated ketone
P–02–0827	11/15/02	11/10/02	(G) Bisacylphosphinoxide
P–02–0838	11/04/02	10/22/02	(G) Dipentaerythritol ester of branched and linear fatty acids
P–02–0874	11/14/02	10/28/02	(S) Hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine, 1,6-hexanediol, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid and 1,1'-methylenebis[4-isocyanatocyclohexane], compound with nu,nu-diethylethanamine
P–94–1901	11/15/02	10/25/02	(G) Blocked aliphatic polyisocyanate
P–96–1499	11/07/02	10/09/02	(G) Aminoslkylmodified silicone fluid
P–97–0074	11/14/02	11/08/02	(S) 1,2 ethanediamine, monohydrochloride

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated:December 9, 2002.

Sandra R. Wilkins,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 02–31588 Filed 12–13–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0325; FRL–7282–3]

Revised Final Health Effects Test Guidelines; Acute Toxicity Testing–Background and Acute Oral Toxicity; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a unified library for test guidelines issued by the Office of Prevention, Pesticides and Toxic Substances (OPPTS) for use in testing chemical substances to develop data for submission to EPA under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These test guidelines represent an Agency effort that began in 1991 to harmonize the test guidelines within OPPTS, as well as to harmonize the OPPTS test guidelines with those of the Organization for Economic Cooperation and Development (OECD). The process for developing and amending these test guidelines includes public participation and the extensive involvement of the scientific community, including peer review by the Scientific Advisory Panel (SAP), the Scientific Advisory Board (SAB) and other expert scientific organizations. Guidelines are also reviewed, when appropriate, by the Interagency Coordinating Committee for Alternative Methods (ICCVAM) for determination of validation status. With this notice, EPA is announcing the availability of the revised final test guidelines for Series 870–Health Effects Test Guidelines, OPPTS 870.1000 Acute Toxicity Testing–Background and OPPTS 870.1100 Acute Oral Toxicity.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: TSCA information contact: TSCA Hotline at TAIS/7408, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

FIFRA information contact: Communications Services Branch (7506C), Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5017; fax number: (703) 305–5558.

For FIFRA technical information contact: Deborah McCall, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7109; e-mail address: *mccall.deborah@epa.gov*.

For TSCA technical information on OPPTS 870.1100 contact: Elizabeth Margosches, Risk Assessment Division (7403M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–7636; e-mail address: *margosches.elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who are or may be required to conduct testing of chemical substances under TSCA, FFDCA, or FIFRA, 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.

II. How Can I Get Copies of This Document and Other Related Information?

A. Docket

EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0325. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

B. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*.You may also obtain copies of test guidelines from the EPA Internet Home Page at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

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

III. What Action is EPA Taking?

EPA is announcing the availability of the revised final test guideline for Series 870–Health Effects Test Guidelines, OPPTS 870.1100 Acute Oral Toxicity. An improved Up-and-Down Procedure (UDP) protocol for acute oral toxicity testing was developed, by a team of regulatory and industry scientists, that is better able to provide the types of testing data needed for U.S. agencies to make regulatory decisions. The revised protocol includes a primary test, a limit test, and determination of the confidence intervals for the LD50. A software program to assist laboratory users in the conduct of the test was also developed. The revised final test guideline was reviewed by EPA's SAP in a public meeting on December 12, 2001, which was announced in the **Federal Register** on November 15, 2001 (66 FR 57438) (FRL–6811–1), and recommendations of the SAP were incorporated into the test protocol. The ICCVAM reviewed the protocol at an open meeting on July 25, 2000, and again in a public teleconference meeting held on July 21, 2001, where changes recommended in the earlier meeting were reviewed and accepted. The improved UDP was adopted as test guideline 425 by OECD in December 2001. The UDP in this guideline is of value in reducing the number of animals required to determine the acute oral toxicity of a chemical. In addition to the estimation of LD50 and confidence intervals, the test allows the observation of signs of toxicity. Moreover, use of OECD guidance for humane endpoints should reduce the overall suffering of animals in this type of test. The Agency strongly recommends the use of the revised UDP to meet the testing requirements for industrial chemicals and registration of pesticides. Acute oral toxicity studies using the UDP which are initiated after December 17, 2002, should be in accordance with the UDP described in this guideline. Two other alternative guidelines are available through OECD (420 Acute Oral Toxicity–Fixed Dose Method and 423 Acute Oral Toxicity–Acute Toxic Class Method). These methods assess lethality within a dose range. The Agency is also making available revised final test guideline OPPTS 870.1000 Acute Toxicity Testing–Background to reflect revision of the OPPTS 870.1100 Acute Oral Toxicity test guideline and acceptability of two other OECD alternative guidelines.

IV. Are There Any Applicable Voluntary Consensus Standards That EPA Should Consider?

This notice of availability does not involve a proposed regulatory action that would require the Agency to consider 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). Section 12(d) of NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide an explanation to Congress, through Office of Management and Budget (OMB), when the Agency decides not to use available and applicable voluntary consensus standards when the NTTAA directs the Agency to do so.

List of Subjects

Environmental protection, Chemical testing, Test guideline.

Dated: December 11, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–31612 Filed 12–12–02; 9:03 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Schedule Change; FCC To Hold Open Commission Meeting, Wednesday, December 11, 2002

December 10, 2002.

Please note that the time for the Federal Communications Commission Open Meeting is rescheduled from 9:30 a.m. to 1:30 p.m.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 11, 2002, which is scheduled to commence at 1:30 p.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Wireless Tele-Communications	The Wireless Telecommunications Bureau will report on the status of unintentional wireless 911 calls.
2	Wireless Tele-Communications	*Title:* Facilitating the Provisions of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services. *Summary:* The Commission will consider a Notice of Inquiry that would seek comment on the effectiveness of current regulatory tools in facilitating the delivery of spectrum-based services to rural areas and the extent to which rural telephone companies and other entities seeking to serve rural areas have opportunities to provide spectrum-based services.
3	Wireless Tele-Communications	*Title:* Revisions of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems (CC Docket No. 94–102); Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; Petition of the National Telecommunications and Information Administration to Amend Part 25 of the Commission's Rules to Establish Emissions Limits for Mobile and Portable Earth Stations Operating in the 1610–1660.5 MHz Band (IB Docket No. 99–67). *Summary:* The Commission will consider a Further Notice of Proposed Rulemaking concerning access to emergency services from services and devices that may not be currently within the scope of the Commission's E911 rules.
4	Wireless Tele-Communications	*Title:* Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services. *Summary:* The Commission will consider a Notice of Inquiry seeking information that can be used to analyze the status of competition in the CMRS industry for purpose of its Eighth Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services.
5	Office of Engineering and Technology	*Title:* Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band. *Summary:* The Commission will consider a Notice of Inquiry concerning the possibility of permitting unlicensed transmitters to operate in additional frequency bands.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at Qualexint@aol.com.

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. Audio/Video coverage of the meeting will be broadcast live over the Internet from the FCC's Audio/Video Events web page at *www.fcc.gov/realaudio.* Audio and video tapes of this meeting can be purchased from CACI Productions, 341 Victory Drive, Herndon, VA 20170, telephone number (703) 834–1470, Ext. 19; fax number (703) 834–0111.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–31713 Filed 12–12–02; 2:40 pm]

BILLING CODE 6712–01–U

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 30, 2002.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Herbert L. Winemiller and Gwyneth A. Winemiller, both of Fort Pierce, Florida; to retain control of Whittington Bancorp, Inc., Benton, Illinois, and thereby indirectly retain control of State Bank of Whittington, Benton, Illinois.

B. Federal Reserve Bank of Minneapolis (Richard M. Todd, Vice President and Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Paul David Pieschel, Springfield, Minnesota; to acquire control of Piesco, Inc., Springfield, Minnesota, and thereby indirectly acquire control of Citizens State Bank Norwood Young America, Norwood Young America, Minnesota, and Farmers and Merchants State Bank of Springfield, Springfield, Minnesota.

Board of Governors of the Federal Reserve System, December 10, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–31537 Filed 12–13–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 7, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. IBERIABANK Corporation, New Iberia, Louisiana; to merge with Acadiana Bancshares, Inc., Lafayette, Louisiana, and thereby indirectly acquire voting shares of LBA Savings Bank, Lafayette, Louisiana.

Board of Governors of the Federal Reserve System, December 10, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–31538 Filed 12–13–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The FTC is submitting the information collection requirements of its proposed revision of the Pay-Per-Call Rule to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act.

DATES: Comments must be submitted on or before January 15, 2003.

ADDRESSES: Send comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, ATTN.: Desk Officer for the Federal Trade Commission (comments in electronic form should be sent to *oira-docket@omb.eop.gov*), and also to the Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, NW., Washington, DC 20580 (or *PPC–PRA@ftc.gov*, except as noted below). All submissions should be captioned ''Pay-Per-Call Rule'' and be identified as responding to this notice.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the electronic mailboxes noted earlier. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii).

FOR FURTHER INFORMATION CONTACT: Alex Tang, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2447. For information regarding the Pay-Per-Call rulemaking, contact Elizabeth Hone, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3207. A separate Supporting Statement that the Commission is also submitting to OMB will be made available on the Commission's public record of the Pay-Per-Call rulemaking proceeding and on the FTC's Web site, *http://www.ftc.gov*.

SUPPLEMENTARY INFORMATION: On October 30, 1998, the Commission published a notice of proposed rulemaking (63 FR 58524) to amend its Pay-Per-Call Rule 16 CFR part 308.[1] The Rule, which implements Titles II and III of the Telephone Disclosure and Dispute Resolution Act, 15 U.S.C. 5711 *et seq.*, requires the disclosure of cost and other information with regard to pay-per-call services and establishes dispute resolution procedures for telephone-billed purchases (*i.e.*, charges for pay-per-call services or other charges appearing on a telephone bill other than telecommunications charges). As explained in the notice of proposed rulemaking, the Rule contains certain reporting and disclosure requirements that are subject to OMB review under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520.[2] Accordingly, the FTC submitted the Rule with proposed amendments to OMB (*see* 64 FR 70031, Dec. 15, 1999) for its approval, which was granted until December 31, 2002 (OMB control number 3084–0102). Because that approval is expiring and the Commission has not yet adopted the proposed amendments in final form, the Commission is submitting the Rule with proposed amendments for approval again under the same control number through December 31, 2005.

As required by the PRA, the Commission's NPRM, 63 FR 58556–57, invited public comment on the Rule's information collection requirements and proposed amendments before their submission to OMB. Although the Commission received no comments directly responding to the Commission's specific PRA questions, the Commission received one comment, from U.S. West, stating that its current cost for making an annual disclosure of dispute resolution procedures under the Rule was $53,000 and that this annual cost would increase to $819,000 if the disclosures were required with every billing cycle under a proposed amendment to § 308.20(m)(1). This comment and others (available on the FTC's Web site, *http://www.ftc.gov*) are being considered by the staff to determine whether to recommend that the Commission not adopt that proposed amendment so as to minimize the Rule's compliance burden.

Pursuant to 44 U.S.C. 3507(a)(1)(D) and 5 CFR 1320.5(a)(1)(iv)(B), the Commission publishes the following additional information, and invites any further public comment to OMB and the Commission, regarding the information collection requirements and proposed amendments being submitted again to OMB.

Title: Trade Regulation Rule Concerning Pay-Per-Call Services and Other Telephone-Billed Purchases (''Pay-Per-Call Rule'').

Summary of the collection of information: Reporting and disclosure requirements to implement Titles II and III of the Telephone Disclosure and Dispute Resolution Act of 1992, as amended, 15 U.S.C. 5711 *et seq.*, which requires the disclosure of cost and other information with regard to pay-per-call services and establishes dispute resolution procedures for telephone-billed purchases.

Brief description of the need for and proposed use of the information: The reporting and disclosure requirements are mandated by statute and are necessary to help prevent unfair and deceptive acts and practices in the advertising and operation of pay-per-call services and in the collection of charges for telephone-billed purchases. The information obtained by the Commission pursuant to the reporting requirement is used for law enforcement purposes. The disclosure requirements ensure that consumers are adequately informed of the costs they can expect to incur in using a pay-per-call service, that they will not be liable for unauthorized non-toll charges on their telephone bills, and that they have certain dispute resolution rights and obligations with respect to such telephone-billed purchases.

Likely respondents, including estimated number and proposed frequency of response: Respondents are common carriers (subject to the reporting requirement only, unless acting as a billing entity), information providers (vendors) offering one or more pay-per-call services or programs, and billing entities. The Commission, to obtain OMB approval of the Rule, had previously estimated that it would request information pursuant to the reporting requirement from no more than approximately 25 common carriers per year, and that the disclosure requirements would apply to 20,000 information vendors and 1400 billing entities. *See* 61 FR 43764, 43767–78 (Aug. 26, 1996). In October 1998, when the Commission issued its NPRM, and in December 1999, when the Commission first submitted its proposal to OMB for approval, the Commission increased its prior burden estimates by 12% to account for industry growth in information vendors and/or pay-per-call services since the prior estimates. *See* 63 FR 58556–57 (NPRM); 64 FR 70031 (submission to OMB). In submitting the Rule and proposed amendments for OMB approval again, the Commission is increasing the burden estimate this time by 5% to account for additional growth, if any, in the industry since the agency's December 1999 submission.[3]

Estimated annual reporting and recordkeeping burden: The total estimated annual hours burden of the information collection requirements of the Rule, including the proposed amendments, is 5,386,983 (or 5,387,000 rounded). This burden consists entirely of reporting and disclosure requirements; as explained earlier (n. 2), there are no recordkeeping requirements. The burden hour estimate for each reporting or disclosure requirement has been multiplied by a special ''blended'' wage rate (expressed in dollars per hour), based on the particular skill mix needed to carry out that requirement, to determine the total annual cost of that requirement. The blended rate calculations are based on the following skill categories and average wage rates: $75/hour for professional (attorney) services; $20/hour for skilled clerical workers; $25/

[1] The Rule was originally promulgated as the ''Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992'' and was known as the ''900-Number Rule.'' It will be renamed the ''Trade Regulation Rule Concerning Pay-Per-Call Services and Other Telephone-Billed Purchases'' and is referred to in the Commission's notice of proposed rulemaking and in this document as the ''Pay-Per-Call Rule.''

[2] Neither the Rule nor the proposed amendments contain any recordkeeping requirements that would be subject to the PRA.

[3] This increase is roughly equivalent to the current annual rate of inflation (1.51% based on the Consumer Price Index published through Sept. 2002), multiplied by three to represent the three-year period since the last OMB submission. Absent other applicable data from the record of this proceeding, the Commission recognizes that this 5% estimate may or may not reflect the actual growth in the relevant industry in the three-year period since the FTC's last burden estimate. The agency seeks public comment or data that might help refine the estimate.

hour for computer programmers; and $50/hour for management time. Annual burden hour estimates (and the estimated total cost of those hours) have been provided below.

The burden estimates do not contain a separate set of figures for other annual ''cost'' burdens, if any—*i.e.*, (a) capital and start-up costs or (b) operation, maintenance and purchase of outside services not already reflected in the above burden hour estimates and associated annual costs. Capital or start-up costs are generally subsumed in activities otherwise undertaken in the ordinary course of business (*e.g.*, business records from which only existing information must be reported to the Commission, pay-per-call advertisements or audiotexts to which cost or other disclosures are added, etc.). To the extent that entities incur operating or maintenance expenses, or purchase outside services to satisfy the Rule's requirements, staff believe those expenses are also included in (or, if contracted out, would be comparable to) the burden hours and estimated annual burden estimates provided below (where such expenses are labor-related), or are otherwise included in the ordinary cost of doing business (where the expenses are other than labor-related).

Reporting requirement: This requirement is currently set forth in § 308.6 of the Rule, to be amended and redesignated § 308.19(a). The previous estimated hours burden for this reporting requirement (*i.e.*, to provide certain information to the Commission upon request) was 140 hours annually (based on 25 common carriers each spending 5 hours annually plus a 12% increase), which is being increased by 5% to 147 hours annually, at an average revised wage rate of $75/hour (100 percent of each hour for attorney services) or a total annual cost of $11,025.

Disclosure requirements: (1) *Advertising.* The advertising disclosure requirements of the current Rule would be consolidated into §§ 308.3, 308.4 and 308.7 of the Rule, as amended. The current estimated annual burden on the industry is 129,360 hours. This figure reflects the Commission's original estimate of 20,000 vendors each making certain basic cost disclosures (one hour per disclosure) in three advertisements for pay-per-call services (60,000 burden hours total) plus one hour for an additional disclosure in each of the estimated 50 percent of ads that are directed to individuals under 18 (30,000 burden hours) and each of the estimated 30 percent of all pay-per-call ads relating to sweepstakes or information on federal programs (18,000 burden hours), or a total of 108,000 burden hours (rounded to 110,000), which was increased in the 1999 submission to OMB by 12% for industry growth to 123,200, and has been increased again in this submission by 5% to 129,360 hours. The total estimated annual cost of these burden hours is $5,821,200 using a blended wage rate of $45/hour (40 percent attorney services, 50 percent skilled clerical workers, and 10 percent for management time).

Two proposed amendments, §§ 308.4(a)(1)(iii)(B) and 308.6(b),[4] would add 31,752 annual burden hours to the total, or a total annual cost of $1,428,840 using the $45/hour blended wage rate discussed above. The first of these amendments, requiring disclosures when a call is billed on a variable time rate basis, assumes that 20 percent of the estimated 70,560 advertised pay-per-call services (*i.e.*, after the 5 and 12 percent increases) would need to contain such a disclosure, thereby accounting for 14,112 burden hours, at an annual cost of $635,040. The burden associated with the second amendment, requiring an audio signal to indicate (*i.e.*, disclose) the end of free time used to advertise certain pay-per-call services, is estimated at 17,640 burden hours, assuming this requirement applies to 25 percent of advertised pay-per-call services, or an annual cost of $793,800.

(2) *Preamble.* The Rule's existing preamble disclosure requirement, set forth in § 308.9, imposes an estimated burden of 10 hours annually, for an annual burden of 705,600 burden hours based on 70,560 advertised pay-per-call services. The cost associated with these burden hours is $31,752,000, using a blended wage rate of $45/hour (*i.e.*, similar to the blended rate used for advertising disclosures). As explained in the notice of proposed rulemaking, the estimated burden of a proposed amendment of the preamble disclosure requirement, § 308.4(a)(2)(iii)(B), is one additional hour for approximately 30 percent of the advertised pay-per-call services, or an estimated 21,168 hours, for a total annual cost of $952,560.

(3) *Telephone-billed charges in billing statements.* This requirement is currently set forth in § 308.5(j) of the Rule, which the Commission proposes to redesignate and incorporate into § 308.18, as amended. The blended rate used to calculate the cost of these disclosures was $51.50/hour (50 percent attorney services, 20 percent skilled technical workers, 20 percent computer programming, and 10 percent for management time). The estimated annual burden of this disclosure requirement was 28,224 hours (*i.e.*, 10 percent of 20,000 vendors making spot checks at 12 hours per spot check, or 24,000 burden hours, plus 5 and 12 percent), so the annual cost would be $1,453,536. As explained in the notice of proposed rulemaking, no additional burden is anticipated from any amendments of this requirement.

(4) *Dispute resolution procedures in billing statements.* This disclosure requirement is currently set forth in § 308.7(c), to be redesignated § 308.20, as amended. The blended rate being used for these disclosures is $36/hour (40 percent computer programming, 20 percent attorney services, 30 percent skilled clerical workers, and 10 percent for management time). The estimated hour burden for the annual notice component of this requirement is 8,232 burden hours (based on 1,400 billing entities taking 5 hours to review, revise and provide disclosures annually, as explained in the NPRM, plus 5 and 12 percent), or a total cost of $296,352. An additional 2,940,000 burden hours would be associated with specific notices in those cases where a customer reports a billing error (*i.e.*, 5 percent of an estimated 50 million calls plus 5 and 12 percent, requiring one hour per billing error), or $105,840,000 annually. The additional burden hours for proposed amendments to § 308.2(i) and (j), requiring new disclosures of certain information regarding personal identification numbers issued to customers for access and billing purposes, have been estimated at 52,500 hours (*i.e.*, 5% over the 1999 estimate) or an annual cost of $1,890,000. The additional burden hours for proposed amendments to require certain new disclosures in connection with billing dispute resolution, § 308.18(n)(2) and § 308.18(n)(4), would entail 1,470,000 hours for an annual cost of $52,920,000.

Dated: December 10, 2002.

William E. Kovacic,

General Counsel.

[FR Doc. 02–31586 Filed 12–13–02; 8:45 am]

BILLING CODE 6750–01–P

[4] The PRA discussion in the NPRM erroneously referred to this provision as ''308.7(b).'' *See* 63 FR 58556.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standard and Security.

Time and Date: 9 a.m. to 5 p.m., December 10, 2002. 9 a.m. to 12:30 p.m., December 11, 2002.

Place: Hubert H. Humphrey Building, Room 705A, 200 Independence Avenue, SW., Washington, DC.

Status: Open.

Purpose: In the morning session on December 10, the Subcommittee on Standards and Security will discuss the Administrative Simplification Compliance Act (ASCA) database statistics, identify HIPAA implementation best practices, and assess opportunities for improving the standards maintenance process. In the afternoon the Subcommittee will discuss the scope of work for the cost/benefit analysis regarding possible migration to ICD–10–CM/ICD–10–PCS and will discuss and prepare for the January Subcommittee hearings on complementary and alternative medicine issues. On December 11 the subcommittee will discuss the scope and the criteria for recommendations on the selection of Patient Record Medical Information (PMRI) terminologies under HIPAA.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Karen Trudel, Senior Technical Advisor, Security and Standards Group, Centers for Medicare and Medicaid Services, MS: C5–24–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, telephone: 410–786–9937; or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone: (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: *http://www.ncvhs.hhs.gov/* where an agenda for the meeting will be posted when available.

Dated: December 4, 2002.

James Scanlon,

Acting Director, Office of Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–31556 Filed 12–13–02; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

The National Advisory Council for Healthcare Research and Quality; Meeting Cancellation

With this notice, the Agency for Healthcare Research and Quality informs the public of the cancellation of its meeting on ''The National Advisory Council for Healthcare Research and Quality'' for December 10. The original meeting notice was published on the **Federal Register** on November 21, 2002, Volume 67, Number 225, Page No. 70226.

Dated: December 9, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–31543 Filed 12–10–02; 4:27 pm]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifiers: CMS–R–205, CMS–R–206, CMS–10050, and CMS–R–228]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Extension of a currently approved collection; Title of Information Collection: Information Collection Requirements Referenced in HIPAA for the Individual Market and Supporting Regulations at 45 CFR 148; *Form No.:* CMS—R–205 (OMB #0938–0703); *Use:* Information collection requirements (ICRs) will ensure that issuers in the individual market comply with Title 1 of the Health Insurance Portability and Accountability Act, provide individuals with certificates of coverage necessary to demonstrate prior creditable coverage and file documentation with CMS for review in a Federal direct enforcement state. ICRs will also ensure States' flexibility to implement state alternative mechanisms; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Individuals or households, Not-for-profit institutions, Federal government, and State, local, or tribal government; *Number of Respondents:* 1,041; *Total Annual Responses:* 3,242,500; *Total Annual Hours:* 914,347.

(2)*Type of Information Collection Request:* Extension of a currently approved collection; Title of Information Collection: Information Collection Requirements Referenced in HIPAA for the Group Market and Supporting Regulations at 45 CFR 146; *Form No.:* CMS—R–206 (OMB #0938–0702); *Use:* Information collection requirements (ICRs) will ensure that issuers in the group market comply with Title 1 of the Health Insurance Portability and Accountability Act, including providing individuals with certificates of creditable coverage, notifying individuals about their status with respect to pre-existing condition exclusions, and giving them special enrollment rights to which they are entitled and that states and the Federal government have the flexibility necessary to enforce HIPAA.; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Individuals or households, Not-for-profit institutions, Federal government, and State, local, or tribal government; *Number of Respondents:* 2,080; *Total Annual Responses:* 43,003,297; *Total Annual Hours:* 2,652,281.

(3) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Survey of Newly Eligible Medicare Beneficiaries; *Form No.:* CMS–10050 (OMB #0938–0869); *Use:* It is not enough to merely mail information about the Medicare program to each beneficiary. We need to know not only that the beneficiaries got the information, but that they understood the information and are able to use it in making choices about their Medicare participation. To this end, CMS must

have measure(s) over time of what beneficiaries know and understand about the Medicare program now to be able to quantify and attribute any changes to their understanding or behavior to information/education initiatives. Measuring beneficiary information needs and knowledge over time will help us to evaluate the impact of information/education and other initiatives as well as to understand how the population is changing apart from such initiatives; *Frequency:* Monthly; *Affected Public:* Individuals or households; *Number of Respondents:* 3,600; *Total Annual Responses:* 3,600; *Total Annual Hours:* 1,080.

(4) *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information Collection:* Adjusted Community Rate (ACR) Proposal Medicare+Choice; *Form No.:* CMS–R–228 (OMB #0938–0742); *Use:* Under Part C of the Social Security Act (ACT), a Medicare + Choice (M + C) organization is required to offer a benefit package that is approved and priced properly to all Medicare beneficiaries residing in the service area. This form is used by M + C organization to price its benefit packages; *Frequency:* Annually; *Affected Public:* Business or other-for-profit, Not-for-profit institutions and State, Local or Tribal Government; *Number of Respondents:* 700 ; *Total Annual Responses:* 700 ; *Total Annual Hours:* 66,500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://cms.hhs.gov/regulations/pra/default.asp,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 6, 2002.

Julie Brown,

Acting, Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 02–31546 Filed 12–13–02; 8:45 am]

BILLING CODE 4210–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10073, CMS–R–290, CMS–1557]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Survey of Rural Medicare Providers Regarding Provider Education Needs; *Form No.:* CMS–10073 (OMB #0938–NEW); *Use:* The Division of Provider Education and Training, Centers for Medicare and Medicaid Services (CMS), is requesting Office of Management and Budget (OMB) approval to conduct a survey of the provider education needs of rural Medicare providers. CMS has contracted The Lewin Group to develop and field the survey instrument, analyze and synthesize the information collected, and present findings and recommendations to help CMS better understand the provider education needs of rural providers. The study will also provide an assessment of the specific and unique education challenges faced by rural Medicare providers and the success of current education methods in meeting those challenges; *Frequency:* Other: One-time; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 1,832; *Total Annual Responses:* 1,832; *Total Annual Hours:* 608.

(2) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Procedures for Making National Coverage Decisions; *Form No.:* CMS–R–0290 (OMB #0938–0776); *Use:* These information collection requirements provide the process CMS will use to make a national coverage decision for a specific item or service under sections 1862 and 1871 of the Social Security Act. This will streamline our decision making process and will increase the opportunities for public participation in making national coverage decisions; *Frequency:* Recordkeeping, other (as needed); *Affected Public:* Business or other for-profit, not-for-profit institutions; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 8,000.

(3) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Survey Report Form Clinical Laboratory Improvement Amendments (CLIA) and Supporting Regulations in 42 CFR 493.1—493.2001; *Form No.:* CMS–1557 (OMB #0938–0544); *Use:* CLIA requires the Department of Health and Human Services (DHHS) to establish certification requirements for any laboratory that performs tests on human specimens, and to certify through the issuance of a certificate that those laboratories meet the requirements established by DHHS. The information collected on this survey form is used in the administrative pursuit of the Congressionally-mandated program with regard to regulation of laboratories participating in CLIA. In order for the State survey agency to report to CMS its findings on facility compliance with the individual standards on which CMS determines compliance, the surveyor completes the Survey Report Form. The Survey Worksheet provides space to document the surveyor's notes; *Frequency:* Biennially; *Affected Public:* Business or other for profit, not for profit institutions, and State, local or tribal government; *Number of Respondents:* 26,500; *Total Annual*

Responses: 13,250; *Total Annual Hours:* 6,625.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://cms.hhs.gov/regulations/pra/default.asp,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: December 6, 2002.

Julie Brown,

Acting, Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.

[FR Doc. 02–31547 Filed 12–13–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Availability of Funds for Loan Repayment Program for Repayment of Health Professions Educational Loans

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: The Administration's budget request for Fiscal Year (FY) 2003 includes $11,923,500 for the Indian Health Service (IHS) Loan Repayment Program (LRP) for health professions educational loans (undergraduate) in return for full-time clinical service in Indian health programs. It is anticipated that $11,923,500 will be available to support approximately 298 competing awards averaging $40,000 per award.

This program announcement is subject to the appropriation of funds. This notice is being published early to coincide with the recruitment activity of the IHS, which competes with other Government and private health management organizations to employ qualified health professionals. Funds must be expended by September 30 of the fiscal year. This program is authorized by section 108 of the Indian Health Care Improvement Act (IHCIA) as amended, 25 U.S.C. 1601 *et seq.* The IHS invites potential applicants to request an application for participation in the LRP.

DATES: Applications for the FY 2003 LRP will be accepted and evaluated monthly beginning January 17, 2003, and will continue to be accepted each month thereafter until all funds are exhausted. Subsequent monthly deadline dates are scheduled for Friday of the second full week of each month. Notice of awards will be mailed on the last working day of each month.

Applicants selected for participation in the FY 2003 program cycle will be expected to being their service period no later than September 30, 2003.

Applicants shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are *not* acceptable as proof of timely mailing.)

Applications received after the monthly closing date will be held for consideration in the next monthly funding cycle. Applicants who do not receive funding by September 30, 2003, will be notified in writing.

For to be used for application: Applications must be submitted on the form entitled ''Application for the Indian Health Service Loan Repayment Program,'' identified with the Office of Management and Budget approval number of OMB #0917–0014 (expires 12/31/02).

ADDRESSES: Application materials may be obtained by calling or writing to the address below. In addition, completed applications should be returned to: IHS Loan Repayment Program, 801 Thompson Avenue, Suite 120, Rockville, Maryland 20852, PH: 301/443–3396 [between 8 a.m. and 5 p.m. (EST) Monday through Friday, except Federal holidays].

FOR FURTHER INFORMATION CONTACT: Please address inquiries to Ms. Jacqueline K. Santiago, Chief, IHS Loan Repayment Program, 801 Thompson Avenue, Suite 120, Rockville, Maryland 20852, PH: 301/443–3396 [between 8 a.m. and 5 p.m. (EST) Monday through Friday, except Federal holidays].

SUPPLEMENTARY INFORMATION: Section 108 of the IHCIA, as amended by Pub. L. 100–713 and 102–573, authorizes the IHS LRP and provides in pertinent part as follows:

> The Secretary, acting through the Service, shall establish a program to be known as the Indian health Service Loan Repayment Program (hereinafter referred to as the ''Loan Repayment Program'') in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

Section 4(n) of the IHCIA, as amended by the Indian Health Care Improvement Technical Corrections Act of 1996, Pub. L. 104–313, provides that:

> ''Health Profession'' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, an allied health profession, or any other health profession.

For the purposes of this program, the term ''Indian health program'' is defined in Section 108(a)(2)(A), as follows:
* * * any health program or facility funded, in whole or in part, by the IHS for the benefit of Indians and administered:

a. Directly by the Service; (or)

b. By any Indian tribe or tribal or Indian organization pursuant to a contract under:

(1) The Indian Self-Determination Act: or

(2) Section 23 of the Act of April 30, 1908, (25 U.S.C. 47), popularly known as the Buy Indian Act; or

(3) By an urban Indian organization pursuant to Title V of this act.

Applicants may sign contractual agreements with the Secretary for 2 years. The IHS will repay all, or a portion of the applicant's health profession educational loans (undergraduate and graduate) for tuition expenses and reasonable educational and living expenses in amounts up to $20,000 per year for each year of contracted service. Payments will be made annually to the participant for the purpose of repaying his/her outstanding health profession educational loans. Payment of health profession education loans will be made to the participant within 120 days, from the date the contract becomes effective.

The Secretary must approve the contract before the disbursement of loan repayments can be made to the participant. Participants will be required to fulfill their contract service agreements through full-time clinical practice at an Indian health program site determined by the Secretary. Loan repayment sites are characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. All Indian health program sites are annually prioritized with the Agency by discipline, based on need or vacancy.

All health professionals will receive up to $20,000 per year for the length of their contract. Where the amount of the LRP award may result in an increase in Federal income tax liability, the IHS will pay an additional 20 percent of the participant's total loan repayments to the Internal Revenue Service for the increased tax liability.

For FY 2003 new LRP applicants who are or will be stationed in an IHS Health care facility with a health professional vacancy rate of at least 40% for 6 consecutive months and has been deemed a health professional critical shortage site by the Director of IHS may receive up to $30,000 per year plus an additional 31 percent for Federal Withholding if funding is available. Current LRP participants at critical shortage sites will continue to receive up to $20,000 a year and a 20 percent tax subsidy rate until their current contracts have expired. However, LRP participants stationed at critical shortage sites who wish to extend their contracts will be eligible to receive up to the amount of $30,000 a year and a 31 percent tax subsidy for the additional contract period if funds are available and the funding will not exceed the total of the individual's outstanding eligible health profession educational loans.

Pursuant to section 108(b), to be eligible to participate in the LRP, an individual must:

(1) A. Be enrolled:

(i) In a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

(ii) In an approved graduate training program in a health profession; or

B. Have a degree in a health profession and a license to practice; and

(2) A. Be eligible for, or hold an appointment as a Commissioned Officer in the Regular or Reserve Corps of the Public Health Service (PHS); or

B. Be eligible for selection for civilian service in the Regular or Reserve Corps of the (PHS); or

C. Meet the professional standards for civil service employment in the IHS; or

D. Be employed in an Indian health program without service obligation; and

(3) Submit to the Secretary an application for a contract to the Loan Repayment Program

All program must sign and submit to the Secretary, a written contract agreeing to accept repayment of educational loans and to serve for the applicable period of obligated service in a priority site as determined by the Secretary, and submit a signed affidavit attesting to the fact that they have been informed of the relative merits of the U.S. PHS Commissioned Corps and the Civil Service as employment options.

Once the applicant is approved for participation in the LRP, the applicant will receive confirmation of his/her loan repayment award and the duty site at which he/she will serve his/her loan repayment obligation.

The IHS has identified the positions in each Indian health program for which there is a need or vacancy and ranked those position in order of priority by developing discipline-specific prioritized lists of sites. Ranking criteria for these sites include the following:

- Historically critical shortages caused by frequent staff turnover;
- Current unmatched vacancies in a Health Profession Discipline;
- Projected vacancies in a Health Profession Discipline;
- Ensuring that the staffing needs of Indian health program administered by an Indian Tribe or Tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and
- Giving priority to vacancies in Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached LRP contracts entered into under this section.
- Consistent with this priority ranking, in determining applications to be approved and contracts to accept, the IHS will give priority to applications made by American Indians and Alaska Natives and to individuals recruited through the efforts of Indian Tribes or Tribal or Indian organizations.
- Funds appropriated for the LRP in FY 2003 will be distributed among the health profession as follows: allophathic/osteopathic practitioners will receive 27 percent, registered nurses 20 percent, mental health professionals 10 percent, dentists 12 percent, pharmacies 10 percent, optometrists 5 percent, physician assistants/advanced practice nurses 6 percent, podiatrists 4 percent, physical therapists 2 percent, other professions 4 percent. This requirement does not apply if the number of applicants from these groups, respectively, is not sufficient to meet the requirement.

Applicants whose applications were complete by September 30, 2000, and who want to complete in the FY 2003 award cycle, will receive a site score equal to either their FY 2000, FY 2001, FY 2002, or the FY 2003 score, whichever is higher.

The following factors are equal in weight when applied, and are applied when all other criteria are equal and a selection must be made between applicants.

One or all of the following factors may be applicable to an applicant, and the applicant who has the most of these factors, all other criteria being equal, would be selected.

- An applicant's length of current employment in the IHS, Tribal, or urban program.
- Availability for service earlier than other applicants (first come, first served).
- Date the individual's application was received.

Any individual who enters this program and satisfactorily completes his or her obligated period of service may apply to extend his/her contract on a year-by-year basis, as determined by the IHS. Participants extending their contracts will receive up to the maximum amount of $20,000 per year plus an additional 20 percent for Federal Withholding. Participants who were awarded loan repayment contracts prior to FY 2000 will be awarded extensions up to the amount of $30,000 a year and 31 percent in tax subsidy if funds are available, and will not exceed the total of the individual's outstanding eligible health profession educational loans.

Any individual who owes an obligation for health professional service to the Federal Government, a State, or other entity is not eligible for the LRP unless the obligation will be completely satisfied before they begin service under this program.

The IHS Area Offices and Services Units are authorized to provide additional funding to make awards to applicants in the LRP, but must be in compliance with any limits in the appropriation and Section 108 of the Indian Health Care Improvement Act not to exceed the amount authorized in the IHS appropriation (up to $22,000,000 for FY 2003.)

Should an IHS Area Office contribute to the LRP, those funds will be used for only those sites located in that Area. Those sites will retain their relative ranking from the national site-ranking list. For example, the Albuquerque Area Office identifies supplemental monies for dentists. Only the dental positions within the Albuquerque Area will be funded with the supplemental monies consistent with the national ranking and site index within that Area.

Should an IHS Service Unit contribute to the LRP, those funds will be used for only those sites located in that Service Unit. Those sites will retain their relative ranking from the national site-ranking list. For example, Chinle Service Unit identifies supplemental monies for pharmacies. The Chinle Service Unit consists of two facilities, namely the Chinle Comprehensive Health Care Facility and the Tsaile PHS Indian Health Center. The national ranking will be used for the Chinle Comprehensive Health Care Facility (Score =44) and the Tsaile PHS Indian Health Center (Score =46). With a score of 46, the Tsaile PHS Indian Center would receive priority over the Chinle Comprehensive Health Care Facility.

This program is not subject to review under Executive Order 12372.

Dated: December 9, 2002.

The Catalog of Federal Domestic Assistance Number is 93.164.

Charles W. Grim,

Assistant Surgeon General, Interim Director.

[FR Doc. 02–31581 Filed 12–13–02; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443-7978.

Comments are invited on: (a) Whether the proposed collections of information are 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 or other forms of information technology.

Proposed Project: Registration Form for the National Registry of Effective Prevention Programs—(OMB No. 0930–0210; Extension, no change)—section 515(d) of the Public Health Service Act (42 U.S.C. 290bb–21) requires that the Director of SAMHSA's Center for Substance Abuse Prevention (CSAP) establish a national data base providing information on programs for the prevention of substance abuse and specifies that the data base shall contain information appropriate for use by public entities and information appropriate for use by nonprofit private entities. Since 1994, CSAP has met this responsibility through the High Risk Populations Databank on programs for the prevention of substance abuse funded by direct CSAP grants. Because relatively few direct grants of this type have been issued in recent years, CSAP must expand its information collection to include voluntary submission of descriptions of effective substance abuse prevention conducted by state and local governments, nonprofit entities, and the private sector.

CSAP has developed a template to enable practitioners who have evidence that their program reduces risk factors or increases protective factors pertaining to substance abuse to nominate their own standardized program for the Registry. Each program that is nominated should have been standardized (including curriculum manuals, implementation manuals, videotapes, *etc.*), well implemented, and findings should derive from well designed research efforts. Program models nominated will be reviewed and rated by experts annually to be recommended to the field.

CSAP will promote selected models by providing funds to support development of program materials for dissemination, by connecting program developers with organizations able to help in the dissemination efforts, and by promoting model programs nationally through CSAP's State Incentive Grant recipients and regional Centers for Applied Prevention Technology. Annual burden estimates for the Registry are shown in the table below.

Type of submission	Number of respondents	Responses/ respondent	Hours/ response	Total burden hours
Complete	180	1	1.25	225
Abbreviated	8	1	.25	2
Total	188			227

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: December 10, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–31561 Filed 12–13–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4723–FA–13]

Announcement of Funding Awards for Fiscal Year 2002; Brownfields Economic Development Initiative

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for the Fiscal Year 2002 Brownfields Economic Development Initiative. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to stimulate economic development by local governments and private sector parties in brownfields.

FOR FURTHER INFORMATION CONTACT: Donald P. Mains, Deputy Assistant Secretary for Economic Development, U.S. Department of Housing and Urban Development, Room 7136, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–4091. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TTY by dialing the Federal Information Relay Service on (800) 877–8399, or 202–708–1455. (Telephone numbers, other than the two ''800'' numbers, are not toll free.)

SUPPLEMENTARY INFORMATION: The Brownfields Economic Development Initiative is administered by the Office of Economic Development under the Assistant Secretary for Community Planning and Development. The Office of Economic Development administers HUD's ongoing grant programs to assist local governments, nonprofit organizations and the private sector in economic development efforts.

The Brownfields Economic Development Initiative (BEDI) was enacted in section 108(q) of the Housing and Community Development Act of 1974, as amended. Eligible applicants include units of general local government eligible for assistance under the Community Development Block Grant (CDBG) program, as well as urban counties that are eligible under the CDBG program. Each unit of general local government or CDBG-eligible urban county must use its BEDI award to enhance the security of a loan guaranteed by HUD under section 108 of the Housing and Community Development Act of 1974, as amended, for the same project, or to improve the viability of a project financed with the section 108-guaranteed loan. The Brownfields Economic Development Initiative provides each grantee up to $2,000,000 for the redevelopment of abandoned, idled or underutilized industrial or commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

The Catalog of Federal Domestic Assistance number for this program is 14.246.

On March 26, 2002 (67 FR 14135) HUD published a Super Notice of Funding Availability (SuperNOFA) announcing the availability of $29,008,155 in FY 2002 funds for the Browonfields Economic Development Initiative. The Department reviewed, evaluated and scored the applications received based on the criteria in the SuperNOFA. As a result, HUD has funded the applications announced below, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as set forth below.

List of Awardees for Grant Assistance Under the FY 2002 Brownfields Economic Development Initiative; Funding Competition, by Name, Address, Phone Number, Grant Amount

California

City of Anaheim, 200 S. Anaheim Boulevard, Anaheim, CA 92805, (714) 765–4306, $650,000.
City of Los Angles, 200 N. Spring Street, Los Angeles, CA 90012, (213) 978–0670, $2,000,000.
City of Richmond, 330 25th Street, Richmond, CA 94804, (510) 307–8140, $1,000,000.
City of Bakersfield, 1501 Truxton Avenue, Bakersfield, CA 93301, (661) 326–3765, $250,000.
City of Los Angeles, 215 W. 6th Street, 3rd Floor, Los Angeles, CA 90014, (213) 485–2952, $1,400,000.
City of San Jose, 801 N. First Street, San Jose, CA 95110, (408) 794–1056, $2,000,000.
City of Visalia, 707 West Acequia Avenue, Visalia, CA 93291, (559) 713–4511, $244,000.

Florida

City of Miami, 444 SW. 2 Avenue, Suite 1035, Miami, FL 33130, (305) 416–1414, $1,000,000.
City of Pompano Beach, 100 West Atlantic Boulevard, Pompano Beach, FL 33060, (954) 786–4083, $500,000.

Iowa

City of Waterloo, 715 Mulberry Street, Waterloo, IA 50703, (319) 291–4366, $2,000,000.

Illinois

City of Rockford, 425 E. State Street, Rockford, Il 61104, (815) 987–5694, $300,000.

Massachusetts

City of Worcester, 455 Main Street, Rm. 309, Worcester, MA 01608, $1,000,000.

Michigan

City of Flint, 1101 S. Saginaw Street, Flint, MI 48502, (810) 766–7436, $780,000.
Wayne County, Building L–13, 600 Randolph, Detroit, MI 48226, (313) 224–5250, $650,000.

New Mexico

City of Carlsbad, PO Box 1569, Carlsbad, NM 88220, (505) 887–1191, $775,000.

New York

City of New York, 100 Gold Street, Rm. 5–B2, New York, NY 10038, (212) 863–8060, $665,000.
City of Yonkers, 40 North Broadway, Yonkers, NY 10701, (914) 377–6619, $1,000,000.

Pennsylvania

Chester County, 2 North High Street, PO Box 2748, West Chester, PA 19380, (610) 344–6900, $2,000,000.
City of Pittsburgh, 414 Grant Street, Pittsburgh, PA 15219, (412) 255–6554, $1,500,000.
City of Reading, 815 Washington Street, Reading, PA 19601, (610) 655–6211, $1,100,000.

Rhode Island

City of East Providence, 145 Taunton Avenue, East Providence, RI 02924, (401) 435–7530, $2,000,000.

Utah

City of Orem, 56 North Street, Orem, UT, (801) 226–1521, $500,000.

Virginia

City of Norfolk, 810 Union Street, Rm. 1100, Norfolk, VA 23510, (757) 533–4685, $2,000,000.

Dated: December 10, 2002.

Roy Bernardi,

Assistant Secretary for Community , Planning and Development.

[FR Doc. 02–31545 Filed 12–13–02; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for an Incidental Take Permit for the Development and Operation of a High Adventure Boy Scout Camp on the 4,848-Acre Griffith League Ranch, Bastrop County, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Boy Scouts of America Capitol Area Council #564 (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE–065406–0. The requested permit, which is for a period of 50 years, would authorize the incidental take of the endangered Houston toad (*Bufo houstonensis*). The proposed take would occur as a result of the development and operation of a high adventure Boy Scout Camp on the 4,848-acre Griffith League Ranch,

Bastrop County, Texas. The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application.

DATES: Written comments on the application should be received within 60 days of the date of this publication.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by written or telephone request to Sybil Vosler, U.S. Fish and Wildlife Service, Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request or by appointment only during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service Office, Austin, Texas. Data or comments concerning the application and EA/HCP should be submitted in writing to the Field Supervisor, U.S. Fish and Wildlife Service Office, Austin, Texas at the above address. Please refer to permit number TE–065406–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Sybil Vosler at the above U.S. Fish and Wildlife Service Office, Austin, Texas.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: The Boy Scouts of America Capitol Area Council #564 plans to develop and operate a high adventure Boy Scout Camp on the 4,848-acre Griffith League Ranch, Bastrop County, Texas. This action would eliminate up to approximately 498 acres of habitat and moderately impact up to 416 acres of Houston toad habitat resulting in take of the Houston toad. The Applicant proposes to compensate for this incidental take of the Houston toad by setting aside and managing under a long-term conservation easement up to 748 acres of the Griffith League Ranch for the benefit of the toad depending on the actual acres impacted. The Boy Scouts expect that balance of the Houston toad habitat on the Griffith League Ranch will have little or no impact from activities such as day hiking, backpacking, orienteering and nature studies. The Boy Scouts of America Capitol Area Council #564 believe they could use their resources to manage the Griffith League Ranch in such a manner as to avoid impacts and protect the toad as much as possible while carrying out their primary mission. They will also incorporate information regarding the conservation of the Houston toad into the educational program at Griffith League Ranch and facilitate scientific studies aimed at increasing the available information about the toad by making the Griffith League Ranch available for such studies.

Alternatives to this action were rejected because not developing the subject property with federally listed species present was not economically feasible, would not provide a valuable social service, and would not contribute to positive management and increased knowledge of the Houston toad. Alteration of the project design increased the level of impacts and was rejected.

A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and NEPA regulations (40 CFR 1506.6).

Geoffrey L. Haskett,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 02–31565 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application for Incidental Take and Notice of Availability of an Environmental Assessment/Habitat Conservation Plan For Issuance of an Endangered Species Act Section 10(a)(1)(B) for the Cactus Ferruginous Pygmy-Owl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Exeter LXI, L.L.C. (Applicant) has applied for an incidental take permit (TE–063647–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered cactus ferruginous pygmy-owl (*Glaucidium brasilianiam cactorum*), which would occur as a result of the construction and occupation of a proposed 103-acre residential development project (Skyranch) in Pima County, Arizona. A draft Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the proposed development project has been prepared as required under section 10(a)(1)(B).

DATES: Written comments on the application should be received within 60 days of the date of this publication.

ADDRESSES: Persons wishing to review the application and draft EA/HCP may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Kim Hartwig, U.S. Fish and Wildlife Service, 110 S. Church Ave, Suite 3450, Tucson, Arizona 85701 (520/670–4617). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service, Tucson, Arizona. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, 110 South Church Ave, Suite 3450, Tucson, Arizona 85701. Please refer to permit number TE–063647–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Kim Hartwig, U.S. Fish and Wildlife Service, 110 S. Church Ave, Suite 3450, Tucson, Arizona 85701.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the cactus ferruginous pygmy-owl. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Exeter LXI, L.L.C. plans to construct a residential development on 103-acres of the 515-acre Skyranch property. This action will eliminate 103 acres or less of cactus ferruginous pygmy-owl habitat. The Service and the Applicant have prepared a draft EA/HCP that outlines the measures necessary to minimize and mitigate to the maximum extent practicable the incidental take of the cactus ferruginous pygmy-owl. The Applicant proposes to compensate for the incidental take of the cactus ferruginous pygmy-owl by preserving 413 acres of the 515-acre Skyranch property as a Reserve, which will be buffered from development by development setbacks.

A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act (NEPA) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and NEPA regulations (40 CFR 1506.6).

Geoffrey L. Haskett,

Regional Director, Region 2.

[FR Doc. 02–31566 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–03–1020–PG]

Notice of Public Meeting, New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) New Mexico Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held on January 9–10, 2003, at the Sheraton Uptown, 2600 Louisiana Blvd., Albuquerque, NM beginning at 8 a.m. The meeting will adjourn at approximately 5 p.m. both days. An optional Field Trip is planned for the Placitas area. The three established RAC subcommittees will meet in the late afternoon or evening on Thursday, January 9. The public comment period will begin at 10 a.m. on Friday, January 10, and end at 12 noon.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in New Mexico. At this meeting, we will have briefings/discussion on:

• Report from the RAC Chairs' and Collaborative Land Use Planning Meetings.

• What is the RAC's role.

• Where can the RAC's influence be most effective over the next 1–2 years.

• Future planning and problem solving.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. New Mexico RAC meetings are coordinated with the representative of the Governor of the State of New Mexico, the Office of the Lieutenant Governor.

FOR FURTHER INFORMATION CONTACT: Theresa Herrera, RAC Coordinator, New Mexico State Office, Office of External Affiars, Bureau of Land Management, P.O. Box 27115, Santa Fe, NM 87502–0115, (505) 438–7517.

Dated: December 6, 2002.

Richard A. Whitley,

Acting State Director.

[FR Doc. 02–31548 Filed 12–13–02; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1410–PG]

Notice of Public Meeting, Alaska Resource Advisory Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Alaska Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held February 13–14, 2003, at the Anchorage Federal Office Building, located at 7th and C Street, beginning at 8:30 a.m. The public comment period will begin at 1 p.m. February 13.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, Alaska State Office, 222 W. 7th Avenue #13, Anchorage, AK 99513. Telephone (907) 271–3322 or e-mail *Teresa_McPherson@ak.blm.gov.*

SUPPLEMENTARY INFORMATION: the 13-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Alaska. At this meeting, topics we plan to discuss include:

• The Resource Advisory Council's 2003 work plan.

• Outdated withdrawals on federal public lands in Alaska.

• Status of planning in the National Petroleum Reserve Alaska (NPR–A).

• Other topics the Council may rise.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allotted for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact BLM.

Dated: December 6, 2002.

Linda S.C. Rundell,

Acting State Director.

[FR Doc. 02–31562 Filed 12–13–02; 8:45 am]

BILLING CODE 4310–JA–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–460]

Certain Sortation Systems, Parts Thereof, and Products Containing Same; Commission Decision To Review Portions of a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on the Violation Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review portions of the final initial determination issued by the presiding administrative law judge (ALJ) on October 22, 2002, finding a violation of section 337 of the Tariff Act of 1930, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3041. Copies of the public version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may also be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/*

eol.public. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: This patent-based section 337 investigation is before the Commission for a determination of whether to review, in whole or in part, the final initial determination (''ID'') of the presiding administrative law judge (''ALJ''), in which he found a violation of section 337 of the Tariff Act of 1930, as amended.

The Commission voted to institute this investigation on July 19, 2001, based upon a complaint filed on June 25, 2001, by Rapistan Systems Advertising Corp. and Siemens Dematic Corp., both of Grand Rapids, Michigan. 66 FR 38741 (July 25, 2001). Named as respondents were Vanderlande Industries Nederland BV of the Netherlands, and Vanderlande Industries of Atlanta, Georgia (collectively referred to as ''Vanderlande''). Vanderlande Industries Nederland BV of the Netherlands designs and manufactures the accused sortation systems, and Vanderlande Industries of Atlanta imports, sells, and installs the accused sortation systems.

Complainants alleged that respondents had violated section 337 by importing into the United States, selling for importation, and selling within the United States after importation certain sortation systems, or components thereof, covered by independent claims 1, 13, 23, 30, and 42 and dependent claims 2, 3, 4, 8, 9, 17, 18, 20, 22, 24, 27, 29, 33, 35, 36, 37, 39, 43, 45, 46, 47, and 49 of U.S. Patent No. 5,127, 510 (''the '510 patent''), owned by Rapistan Systems and exclusively licensed to Siemens Dematic. On April 5, 2002, complainants filed an unopposed motion asking for the termination of the investigation with respect to claims 2, 3, 8, 9, 18, 24, 36, 37, 29, 46, 47, and 49. On May 16, 2002, the ALJ granted the motion in an ID (Order No. 32) and the Commission determined not to review that ID. The claims of the '510 patent at issue are therefore claims 1, 4, 13, 17, 20, 22, 23, 27, 29, 30, 33, 35, 42, 43, and 45. The complaint further alleged that an industry in the United States exists, as required by subsection (a)(2) of section 337.

An evidentiary hearing was held on June 4–17, 2002. On October 22, 2002, the ALJ issued his final ID, in which he determined that respondents' sortation systems, and parts thereof, infringe claims 1 and 4 of the '510 patent, and that the '510 patent is valid and enforceable. Based upon these findings, he found a violation of section 337.

The ALJ recommended issuance of a limited exclusion order barring importation of the accused Mark 2 Posisorter and its parts and components. He recommended excluding spare parts destined for UPS's Hub 2000 facility in Louisville, Kentucky from the scope of the limited exclusion order. He also recommended a bond during the Presidential review period in the amount of 100 percent of the entered value of the infringing products.

On November 4, 2002, Vanderlande and the IA petitioned for review of the ALJ's final ID, and Rapistan submitted a contingent petition for review asking that the Commission review certain issues if it decided to review the ID. On November 12, 2002, Vanderlande, Rapistan, and the IA filed reply submissions.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission has determined to review the ID on the following issues: (1) The ID's construction of the element ''contiguous, generally planar surfaces sloping downward from an upper extent of said diverting surface laterally inward and longitudinally forward or rearward'' in independent claim 30, and dependent claims 33, and 35, and the infringement findings related to this claim element; and (2) the ID's findings regarding the elements of equitable estoppel.

In connection with final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in Vanderlande being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background information, see the Commission Opinion, Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337–TA–360, USITC Publication 2843 (Dec. 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount to be determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the violation issues under review, and on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding and the ALJ's conclusions concerning the two violation issues. Complainant and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Written submissions and proposed remedial orders must be filed no later than the close of business on December 23, 2002. Reply submissions must be filed no later than the close of business on December 30, 2002. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and sections 210.42, 210.43, 210.45, and 210.50 of the Commission's rules of practice and procedure, 19 CFR 210.42, 210.43, 210.45, and 210.50.

Issued: December 11, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–31621 Filed 12–13–02; 8:45 am]

BILLING CODE 9020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Extension of the Unemployment Insurance (UI) Title XII Advances Process

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the DOL is soliciting comments concerning the proposed extension of the process for requesting advances from the Federal Unemployment Account (FUA) and repayment of such advances under title XII of the Social Security Act (SSA). Technically, there is no request for information. There is, however, a paperwork burden on States because they must prepare and transmit formal requests for the authority to request advances and the repayment of said advances.

A copy of the proposed procedure can be obtained by contacting the addressee listed below.

DATES: Written comments must be submitted on or before February 14, 2003.

ADDRESSES: Office of Workforce Security, Employment and Training Administration, Department of Labor, Room S 4231, 200 Constitution Ave, NW., Washington, DC, 20210; 202–693–3200 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: James E. Herbert 202–693–2926, *jherbert@doleta.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Title XII section 1201 of the SSA provides for advances to States from the FUA. The law further sets out specific requirements to be met by a State requesting an advance:

- The Governor must apply for the advance;
- The application must cover a 3 month period and the Secretary of Labor must be furnished with estimates of the amounts needed in each month of the 3 month period;
- An application for an advance shall be made on such forms and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law as the Secretary of Labor deems necessary or relevant to the performance of his duties under this title;
- The amount required by any State for the payment of compensation in any month shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the State's unemployment fund for the payment of compensation in such month;
- The term ''compensation'' means cash benefits payable to individuals with respect to their unemployment exclusive of expenses of administration.

Section 1202(a) of the SSA provides that the Governor of any State may at any time request that funds be transferred from the account of such State to the FUA in repayment of part or all of the balance of advances made to such State under section 1201. These applications and repayments may be requested by an individual designated for that authority in writing by the Governor. The DOL proposes to extend this procedure through January 2006.

II. Review Focus

The DOL is particularly interested in comments which:

- Evaluate whether the proposed extension of the current procedure is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed extension of the current procedure, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the procedure; and
- Minimize the burden of the procedure 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, *e.g.*, permitting electronic submission of responses.

III. Current Actions

This action is requested to maintain the continuity of current procedures which have succeeded in the orderly application and repayment operations at both the State and Federal levels. This is not a data collection process.

Agency: Employment and Training Administration, Department of Labor.

Title: Governor's requests for advances from the Federal unemployment account or requests for voluntary repayment of such advances.

OMB Number: 1205–0199.

Affected Public: State governments.

Total Respondents: 50 States, Washington, DC, the Virgin Islands, and Puerto Rico are covered by this process. The DOL estimates eight States will request advances and make voluntary repayments over the next 3 years. The DOL estimates that there will be 10 annual actions for each State.

Frequency: As needed, based on a State's discretion.

Total Responses: 240.

Average Time Per Response: 1 hour.

Estimated Total Burden Hours: 240.

Estimated Total Burden Cost: There are no startup or capital costs. The operating and maintenance costs for the States will be 240 hours × $25 per hour = *$6,000.* The operating and maintenance costs for the Federal government will be 240 responses × 3 hours per response × $60 per hour = *$43,200.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 10, 2002.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. 02–31526 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6551]

State of Alaska Commercial Fisheries Entry Commission Permit #57748Q, Aleknagik, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #57748Q, Aleknagik, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31527 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6553]

State of Alaska Commercial Fisheries Entry Commission Permit #58075V, Aleknagik, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #58075V, Aleknagik, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31528 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6557]

State of Alaska Commercial Fisheries Entry Commission Permit #55124B, Chignik Lake, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #55124B, Chignik Lake, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31529 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6559]

State of Alaska Commercial Fisheries Entry Commission Permit #67320B, Clarks Point, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #67320B, Clarks Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31530 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6561]

State of Alaska Commercial Fisheries Entry Commission Permit #58475G, Clarks Point, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #58475G, Clarks Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31531 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6563]

State of Alaska Commercial Fisheries Entry Commission Permit #58702U, Clarks Point, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #58702U, Clarks Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31532 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6564]

State of Alaska Commercial Fisheries Entry Commission Permit #57320W, Clarks Point, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #57320W, Clarks Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31533 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6565]

State of Alaska Commercial Fisheries Entry Commission Permit #57539S, Clarks Point, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #57539S, Clarks Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31534 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6569]

State of Alaska Commercial Fisheries Entry Commission Permit #61712F, Dillingham, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #61712F, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31535 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6570]

State of Alaska Commercial Fisheries Entry Commission Permit #61358P, Dillingham, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit #61358P, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 22nd day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–31536 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection The Remedial Education Provisions of the Fair Labor Standards Act. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 14, 2003.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339, fax (202) 693–1451, e-mail *pforkel@fenix2.dol-esa.gov.* Please use only one method of transmission for comments (mail, fax, or e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

Under the Fair Labor Standards Act (FLSA), employees who lack a high school diploma or whose reading level or basic skills are at or below the eighth grade level, may be required by their employers to attend up to 10 hours per week of remedial education. Employees who are subject to the overtime provisions of the FLSA ordinarily must be paid one and one-half times their regular rate of pay for all hours worked over 40 in each workweek. The additional hours devoted to such remedial education would not have to be compensated at the same time and one-half overtime rate; however, employees must receive compensation at their regular rate of pay for time spent receiving such remedial education. Employers wishing to utilize the partial overtime exemption for such employees must record the hours of employees spent in remedial education. This information collection is currently approved for use through June 30, 2003.

II. Review Focus

The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Department seeks the extension of approval to collect this information in order to review and determine employer compliance with the applicable section of the FLSA.

This information collection is for recordkeeping only. There is no change in the information collection request since the last OMB approval.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: The Remedial Education Provisions of the Fair Labor Standards Act.

OMB Number: 1215–0175.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Total Recordkeepers: 15,000.

Frequency: Once per week for 10 weeks.

Average Time per Record: 1 minute per week for 10 weeks (10 min. per employee).

Total Burden Hours: 15,000.

Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 10, 2002.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Offie of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 02–31524 Filed 12–13–02; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10 a.m., Thursday, December 19, 2002.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request for a Federal Credit Union to Expand its Community Charter.
2. Requests from Three (3) Federal Credit Unions to Convert to Community Charters.
3. Request from a Federal Credit Union to Add an Underserved Area to its Field of Membership.
4. Appeal from a Federal Credit Union of the Regional Director's Denial of a Field of Membership Expansion Request.
5. Proposed Rule: Part 703 of UCUA's Rules and Regulations, Investment and Deposit Activities.
6. Notice and Request for Comment on Corporate Federal Credit Union Bylaws.
7. National Credit Union Share Insurance Fund (NCUSI) Operating Level for 2003.
8. Community Development Revolving Loan Fund for Credit Unions: Notice of Applications for Participation and Interest Rate for Loans.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, December 19, 2002.

PLACE: Board Room 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. One (1) Insurance Appeal. Closed pursuant to Exemption (6).
2. Revisions to Delegations of Authority and Travel Manual. Closed pursuant to Exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone: 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 02–31701 Filed 12–12–02; 2:16 pm]

BILLING CODE 7535–-01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 55, ''Operators' Licenses''.
2. *Current OMB approval number:* 3150–0018.
3. *How often the collection is required:* As necessary for NRC to meet its responsibilities to determine the eligibility of applicants for operators' licenses, prepare or review initial operator licensing and requalification examinations, and review applications for and performance of simulation facilities.
4. *Who is required or asked to report:* Holders of and applicants for facility (*i.e.*, nuclear power, research, and test reactor) operating licenses and individual operators' licenses.
5. *The number of annual respondents:* 106.
6. *The number of hours needed annually to complete the requirement or request:* 65,586 (approximately 44,736 hours of reporting burden and approximately 20,850 hours of recordkeeping burden).
7. *Abstract:* 10 CFR Part 55, ''Operators' Licenses,'' of the NRC's regulations, specifies information and data to be provided by applicants and facility licenses so that the NRC may make determinations concerning the licensing and requalification of operators for nuclear reactors, as necessary to promote public health and safety. The reporting and recordkeeping requirements contained in 10 CFR Part 55 are mandatory for the licensees and applicants affected.

Submit, by February 14, 2003, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 9th day of December 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–31610 Filed 12–13–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Company; H. B. Robinson Steam Electric Plant, Unit No. 2; Exemption

1.0 Background

Carolina Power & Light Company (CP&L) is the holder of Facility Operating License No. DPR–23, which authorizes operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Darlington County, South Carolina.

2.0 Request/Action

Pursuant to 10 CFR 55.59(c), a facility's licensed operator requalification program must be conducted for a continuous period not to exceed 2 years (24 months) and upon conclusion must be promptly followed, pursuant to a continuous schedule, by successive requalification programs. Each 2-year requalification program must include a comprehensive biennial written examination and annual operating tests.

By letter dated October 11, 2002, CP&L requested a one-time exemption from the schedular requirements of 10 CFR 55.59(c). Specifically, for HBRSEP2, CP&L has requested a one-time extension from December 31, 2002, to March 31, 2003, for completing the licensed operator requalification annual operating test and comprehensive biennial written examination. This requested exemption would allow an extension of 3 months beyond the schedule for completion of the operating test and written examination as required by 10 CFR 55.59(c). CP&L's letter constitutes a request for exemption under 10 CFR 55.11, which states: ''The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest.'' The exemption is being requested for HBRSEP2 due to an unusually high workload associated with a plant refueling outage (RFO21) and a power uprate project, which occurred just prior to the originally scheduled examinations. Due to the refueling outage and power uprate activities, which included modifying the plant-specific simulator and extensive training of personnel on new and modified procedures, development and administration of the written examination and operating test within the required schedule is viewed as a schedule and workload hardship by the licensee.

3.0 Discussion

Pursuant to 10 CFR 55.11, the Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest.

The Commission has determined that, pursuant to 10 CFR 55.11, granting an exemption to the facility licensee from the schedular requirements in 10 CFR 55.59(c) by allowing HBRSEP2 a one-time extension in the allowed time for completing the licensed operator requalification annual operating test and comprehensive biennial written examination is authorized by law and will not endanger life or property and is otherwise in the public interest. Although the schedular requirements of 10 CFR 55.59(c) at HBRSEP2 will be exceeded, operator performance continues to be satisfactory, as demonstrated both in the plant and during other aspects of operator requalification training. Granting this exemption will allow HBRSEP2 to continue with safe plant operations during the refueling outage, which includes a power uprate project, without undue hardship to plant personnel and HBRSEP2 licensed operators.

4.0 Conclusion

Accordingly, the Commission hereby grants the facility licensee an exemption on a one-time basis from the schedular requirements of 10 CFR 55.59(c) to allow the current HBRSEP2 requalification program to be extended beyond the 24 months, from December 31, 2002, to March 31, 2003. The NRC understands that, following the completion of the operating test and written examination, the next 24-month licensed operator requalification program will begin on April 1, 2003, and continue for a 24-month period.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 72983).

This exemption is effective upon issuance and expires on March 31, 2003.

Dated at Rockville, Maryland, this 10th day of December, 2002.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–31608 Filed 12–13–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–00017]

Notice of Consideration of Amendment Request for the Dow Chemical Company, Midland, MI and Opportunity for Providing Comments and Requesting a Hearing

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Material License No. STB–527 issued to The Dow Chemical Company (Dow), to authorize decommissioning of its Bay City Site Decommissioning Management Plan (SDMP) site in Bay City, Michigan.

Dow began using thorium metal and compounds in 1956 for the production of magnesium-thorium alloys at a Dow-owned site in Bay City, Michigan. The waste slag from the alloying process was disposed of on Dow property in Bay City. Magnesium-thorium material returned by Dow customers was received at Dow's Midland, MI, site for storage. The decommissioning plan (DP) submitted by Dow to decommission the two (Midland and Bay City) sites was approved by a license amendment on July 19, 1996 (Amendment 6). The Midland site was remediated and removed from the license on March 3, 2000 (Amendment 8). After remediating about 31 acres of the 40 acre contaminated area at the Bay City site, Dow proposed, in March 2001, a different approach and conceptual plan for remediating the remaining nine acres. According to Dow, the reason for the change in the approach is that the decommissioning cost is expected to be too high under the previously approved DP. In August 2001, Dow submitted a Supplement to the previously (1996) approved DP. This Supplement was rejected in September 2001 because it was found to be administratively deficient for a detailed technical review. Dow submitted a revised Supplement on January 31, 2002. On July 19, 2002, Dow submitted Attachment 1 to the January 31, 2002, revised Supplement. An NRC administrative review, documented in a letter to Dow dated August 5, 2002, found the revised Supplement acceptable to begin a technical review.

If the NRC approves the revised Supplement, the approval will be documented in an amendment to NRC License No. STB–527. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and either an Environmental Assessment or an Environmental Impact Statement.

II. Opportunity To Provide Comments

The NRC is providing notice to individuals in the vicinity of the site that the NRC is in receipt of a revised Supplement to the DP, and will accept comments concerning this decommissioning proposal and its associated environmental impacts. Comments with respect to this action should be provided in writing within 30 days of this notice and addressed to M. (Sam) Nalluswami, Project Manager, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6694, fax number (301) 415–5398, e-mail: *smn@nrc.gov.* Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

III. Opportunity To Request a Hearing

NRC also provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Whether or not a person has or intends to provide comments as set out in section II above, pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 a.m. and 4:15 p.m., Federal workdays; or

2. By mail or telegram, addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearing be also transmitted to the

Secretary of the Commission either by means of facsimile transmission to 301–415–1101, or by e-mail to *hearingdocket@nrc.gov*.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, The Dow Chemical Company, Ashman Center, 4520 East Ashman, Midland, MI 48674, Attention: Mr. Ben Baker, Project Manager, and;

2. The NRC staff, by delivery to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 a.m. and 4:15 p.m., Federal workdays, or by mail, addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725, or by e-mail to *OGCMailCenter@nrc.gov.*

In addition to meeting other applicable requirements of 10 CFR Part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

IV. Further Information

The application for the license amendment and supporting documentation are available for inspection at NRC's Public Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* (ADAMS Access Numbers: January 31, 2002, Revised Supplement—ML023170462; July 19, 2002, Attachment 1—ML023170508; August 5, 2002, Acceptance Letter—ML022280370) Any questions with respect to this action should be referred to M. (Sam) Nalluswami, Project Manager, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6694. Fax: (301) 415–5398.

Dated at Rockville, Maryland, this 9th day of December, 2002.

For the Nuclear Regulatory Commission.

Larry Camper,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–31611 Filed 12–13–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8968]

Notice of Timely Receipt and Consideration of Renewal Application for the Crownpoint Uranium Project, Crownpoint, NM, and Opportunity To Provide Comments and To Request a Hearing

I. Introduction

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated August 22, 2002, a request from Hydro Resources, Inc. (HRI) for renewal of NRC Source Material License SUA–1580 for the Crownpoint Uranium Project. The application is deemed timely filed, and accordingly, the license will not expire until final action has been taken by the NRC.

In January 1998, HRI was granted by the NRC, Source Material License SUA–1580 for uranium production at the Crownpoint Uranium Project which is the subject of an ongoing adjudication before the NRC. HRI has submitted a license renewal application for a second term. The application only requests the extension of the effective dates of the existing license, all the processes authorized by the current license will remain unchanged.

If the NRC approves the renewal request, the approval will be documented in the issuance of a renewed HRI license. However, before approving the proposed renewal, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

II. Opportunity To Provide Comments

The NRC is providing notice to individuals in the vicinity of the facility that the NRC is in receipt of this request, and will accept comments concerning this action within 30 days of the publication of this notice in the **Federal Register**. The comments may be provided to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room T–6 D59, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852, from 7:30 a.m. until 4:15 p.m. on Federal workdays.

III. Opportunity To Request a Hearing

NRC also provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR part 2. Whether or not a person has or intends to provide comments as set out in section II above, pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 a.m. and 4:15 p.m., Federal workdays; or

2. By mail or telegram, addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearings be also transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101, or by e-mail to *hearingdocket@nrc.gov.*

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Hydro Resources, Inc., 650 South Edmonds Lane, Suite 108, Lewisville, Texas 75067, Attention: Mr. Mark S. Pelizza, President; and

2. The NRC staff, by delivery to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, One

White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 a.m. and 4:15 p.m., Federal workdays, or by mail, addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Because continuing disruptions in the delivery mail to United States Government offices, it is requested that requests for hearing be transmitted to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725, or by e-mail to *OGCMailCenter@nrc.gov.*

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h).
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

IV. Further Information

The application for the license renewal is available for inspection at NRC's Public Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html* (ADAMS Accession Number: ML022460195, License Renewal Request, August 22, 2002). Documents may also be examined and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. Any questions with respect to this action should be referred to Mr. Michael Layton, Project Manager, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–8A33, Washington, DC 20555–0001. Telephone: 301–415–6676. Fax: 301–415–5955.

Dated at Rockville, Maryland, this 9th day of December, 2002.

For the U.S. Nuclear Regulatory Commission.

Daniel M. Gillen,

Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–31607 Filed 12–13–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–318]

Calvert Cliffs Nuclear Power Plant, Inc., Calvert Cliffs Nuclear Power Plant, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) Part 50.44, 46 and Appendix K for Renewed Facility Operating License No. DPR–69, issued to Calvert Cliffs Nuclear Power Plant, Inc. (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2 (Calvert Cliffs), located in Calvert County, Maryland.

Environmental Assessment

Identification of the Proposed Action

The proposed action, as described in the licensee's application for exemption dated August 6, 2002, would allow the licensee to use up to four lead fuel assemblies (LFAs) with an advanced cladding material, a zirconium-based alloy, that does not meet the definition of Zircaloy or ZIRLO, which are referred to in Title 10 of the Code of Federal Regulations section 50.46(a)(1)(i). The LFAs are scheduled to be loaded into the Calvert Cliffs Unit 2 reactor core during the upcoming refueling outage and would remain in the core for 2 cycles.

The Need for the Proposed Action

The proposed exemption from 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50 is needed because these regulations specifically refer to light-water reactors containing fuel consisting of uranium oxide pellets enclosed in zircaloy or ZIRLO tubes. A new zirconium-based alloy cladding has been developed, which is not the same chemical composition as zircaloy or ZIRLO. Therefore, the licensee needs an exemption to insert up to four assemblies containing the new fuel cladding material into the Calvert Cliffs reactor core for test during operation.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that, the proposed exemption will not present an undue risk to the public health and safety. The safety evaluation performed by Framatone ANP, Inc. demonstrates that the predicted chemical, mechanical, and material performance of the M5 cladding is acceptable under all anticipated M5™ operational occurrences and postulated accidents. Furthermore, the LFAs will be placed in non-limiting core locations. In the unlikely event that cladding failures occur in the LFAs, environmental impact would be minimal and is bounded by previous environmental impact statements.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

In regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Calvert Cliffs Nuclear Power Plant (CCNPP) dated April 1973 or the Final Environmental Impact Statement for License Renewal for the CCNPP dated October 1999.

Agencies and Persons Consulted

On September 5, 2002, the staff consulted with the Maryland State official, Richard McLean of the Maryland Department of the Environment, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 6, 2002. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 6th day of December 2002.

For the Nuclear Regulatory Commission.

Guy S. Vissing,

Acting Chief, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–31609 Filed 12–13–02; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Privacy Act of 1974, System of Records

AGENCY: Postal Service.

ACTION: Notice of new and deleted systems of records.

SUMMARY: The Postal Service proposes a reorganization of the current Privacy Act systems of records, as they relate to its external customers. The Postal Service is creating 16 new systems and deleting 22 existing systems of records. The new systems contain all records provided by individual and business customers to the Postal Service.

The new systems encompass a wider range of programs and services in order to provide customers with a comprehensive view of the Postal Service's data collection and management practices. They are organized into more useful categories and are written in plain English. The new systems incorporate our Privacy Act and Postal Service privacy policy requirements, and they reflect the Postal Service focus on industry best practices in protecting customer privacy. The routine uses that apply to customer systems have been revised to more clearly communicate the ways in which the Postal Service uses customer information.

This notice publishes:

Explanation (Section A)
Systems of records index (Section B)
Privacy Act overview (Section C)
Routine uses for general systems (Section D)
Routine uses for customer systems (Section E)
Deletion of 22 systems of records (Section F)
Advance notice of 16 new systems of records (Section G)
Complete text of new systems of records (Section H)

Deleted Systems

The 22 existing systems deleted by the reorganization are listed as follows:

010.010 Address Change, Mail Forwarding, and Related Services Records
010.020 Boxholder Records
010.050 Delivery of Mail Through Agents
010.060 Free Matter for Blind and Visually Handicapped Persons
010.070 Mailbox Irregularities
010.090 Customer Public Key Certificate Records
040.010 Memo to Mailers Address File
040.020 Sexually Oriented Advertisements
040.030 Auction Customer Address Files
040.050 Customer Electronic Document Preparation and Delivery Records
040.060 Customer Electronic Bill Presentment and Payment Records
050.050 International Money Transfer Transaction and Inquiry Records
050.070 Funds Transaction/Transfer Reports
050.080 Suspicious Transaction Reports
090.020 Passport Application Records
140.020 Postage—Postage Evidencing System Records
160.010 Domestic Insured, Registered, Collect on Delivery (COD), and Express Mail Claim and Inquiry Records
160.020 International Ordinary, Insured, Registered, and Express Mail Inquiry and Application for Indemnity Records
220.010 Marketing Database—Customer Records
220.020 Express Mail Service Customer Mailing List
220.030 Postal Products Sales and Distribution
400.010 USPS eServices Registration System Records

New Systems

The preceding 22 systems will be replaced in their entirety with the 16 new systems of records listed as follows:

500.000 Address Change, Mail Forwarding, and Related Services
510.100 *www.usps.com* Registration
510.200 *www.usps.com* Ordering, Payment, and Fulfillment
510.300 Offline Registration, Payment, and Fulfillment
520.100 Mailer Services—Applications and Approvals
520.200 Mail Management and Tracking Activity
530.000 Customer Service and Correspondence
540.000 Customer Delivery Instructions
550.000 Auction Files
560.000 Financial Transactions
570.100 Trust Funds and Transaction Records
570.200 Meter Postage and PC Postage Customer Data and Transaction Records
580.000 Post Office and Retail Services
590.000 Sales, Marketing, Events, and Publications
600.000 International Services
610.000 Identity and Document Verification Services

These actions comply with subsection (e)(4) of the Privacy Act (5 U.S.C. 552a) that requires an agency to publish notice of the existence and character of its systems of records upon establishment or revision, and with paragraph 3a(8) of Appendix I to OMB Circular No. A–130 requiring an agency to conduct a review of the accuracy of its systems of records.

DATES: Any interested party may submit written comments on the proposed new systems of records. Sections A through H will become effective without further notice January 27, 2003, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Written comments on this proposal should be mailed or delivered to the Records Officer, United States Postal Service, 475 L'Enfant Plaza, Room 5846, Washington, DC 20260–5846. Copies of all written comments will be available at the above address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert J. Faruq at (202) 268–2608.

SUPPLEMENTARY INFORMATION: The Postal Service has revised its Privacy Act systems of records that relate to its customers. The systems of records have been issued in order to clearly communicate the Postal Service's data collection and management practices to all its customers.

The existing customer-related systems have been combined and recategorized into 16 new systems. The new systems have been updated in order to improve usability for customers, ensure inclusion of individuals who use business-oriented products and services, and revise and clarify routine uses of information for customer-related systems.

The new systems of records will enhance privacy protection by extending protections to business customers, expanding programs covered, incorporating privacy policies, refining disclosures of information, and establishing systems that are clearer and easier to use and understand.

The new systems of records are not expected to have any adverse effect on privacy rights.

Following are:

Section A—Explanation
Section B—Index
Section C—Privacy Act protections
Section D—Routine uses for general systems
Section E—Routine uses for customer systems
Section F—Deletion of 22 systems
Section G—Notice of 16 new systems
Section H—Complete text of new systems

Section A. Explanation

This notice includes Sections A–H relating to systems of records under the Privacy Act.

Section B is a complete index of Postal Service systems of records that incorporates all of the changes published in this notice. Section B is divided into two parts:

Part 1 includes all general systems, such as personnel systems, litigation systems, and other noncustomer systems.

Part 2 includes all systems that contain records relating to Postal Service customers.

Section C contains an overview of the Privacy Act, its protections, and a description of authorized disclosures.

Section D contains the routine uses that apply to all general systems of records.

Section E contains the routine uses that apply to all customer systems of records.

Section F is a listing of the 22 deleted systems of records with specific references for each deleted system to the new system containing the relevant records.

Section G is the advance notice of the 16 new systems of records, with a listing and brief description of each system.

Section H contains the complete text of the 16 new systems of records.

Section B. Systems of Records Index

Part 1. General Systems of Records

010.000 Collection and Delivery Records
.030 Carrier Drive-Out Agreements
.040 City Carrier Route Records
.080 Rural Carrier Route Records
.020.000 Corporate Relations
.010 Biographical Summaries of Management Personnel for Press Release
030.000 Equal Employment Opportunity/Alternative Dispute Resolution
.010 EEO Discrimination Complaint Files
.020 EEO Staff Selection Records
.030 EEO Administrative Litigation Case Files
.040 Roster of Alternative Dispute Resolution Providers
050.000 Finance Records
.005 Accounts Receivable Files
.020 Payroll System
.040 Uniform Allowance Program
.060 Accounts Payable Files
060.000 Consumer Protection Records
.010 Fraud, False Representation, Lottery, and Nonmailability Case Records
.020 Pandering Act Prohibitory Orders
.030 Appeals Involving Mail Withheld from Delivery
.040 Appeals from Termination of Post Office Box or Caller Service
070.000 Inquiries and Complaints
.010 Correspondence Files of the Postmaster General
.020 Government Officials' Inquiry System
.040 Employee Complaint Records
080.000 Inspection Requirements
.010 Investigative File System
.020 Mail Cover Program Records
.030 Vehicular Violations Records System
100.000 Office Administration
.010 Carpool Coordination/Parking Services Records System
.050 Localized Employee Administration Records
110.000 Property Management
.010 Accountable Property Records
.020 Possible Infringement of Postal Service Intellectual Property Rights
120.000 Personnel Records
.020 Blood Donor Records System
.035 Employee Accident Records
.036 Discipline, Grievance, and Appeals Records for Nonbargaining Unit Employees
.040 Employee Job Bidding Records
.050 Employee Ideas Program Records
.060 Confidential Statements of Employment and Financial Interests
.061 Public Financial Disclosure Reports for Executive Branch Personnel
.070 General Personnel Folders (Official Personnel Folders and Records Related Thereto)
.090 Medical Records
.091 Vehicle Operators Controlled Substance and Alcohol Testing Records
.098 Office of Workers' Compensation Program (OWCP) Record Copies
.099 Injury Compensation Payment Validation Records
.100 Performance Awards System Records
.110 Preemployment Investigation Records
.120 Personnel Research and Test Validation Records
.121 Applicant Race, Sex, National Origin, and Disability Status Records
.130 Postmaster Selection Program Records
.140 Employee Assistance Program (EAP) Records
.151 Recruiting, Examining, and Appointment Records
.152 Career Development and Training Records
.153 Individual Performance Evaluation/Measurement
.154 Employee Survey Process System Records
.170 Safe Driver Awards Records
.180 Skills Bank (Human Resources Records)
.190 Supervisors' Personnel Records
.210 Vehicle Maintenance Personnel and Operators Records
.220 Arbitration Case Files
.230 Adverse Action Appeals (Administrative Litigation Case Files)
.240 Garnishment Case Files
150.000 Records and Information Management Records
.010 Information Disclosure Accounting Records (Freedom of Information Act)
.015 Freedom of Information Act Appeals and Litigation Records
.020 Information Disclosure Accounting Records (Privacy Act)
.025 Privacy Act Appeals and Litigation Records
.030 Computer Logon ID Records
170.000 Resource Management/Productivity Records
.010 Workload/Productivity Management Records
.020 Resource Management Database
190.000 Litigation Records
.010 Miscellaneous Civil Action and Administrative Proceeding Case Files
.020 National Labor Relations Board Administrative Litigation Case Files
.030 Employee and Labor Relations Court Litigation Case Files
200.000 Nonmail Monetary Claims
.010 Relocation Assistance Claims
.020 Monetary Claims for Personal Property Loss or Damage Involving Present or Former Employees
.030 Tort Claims Records
210.000 Contractor Records
.010 Architect-Engineers Selection Records
.020 Driver Screening System Assignment Records
.030 Contractor Employee Fingerprint Records
.040 Supplier and Contractor Records
300.000 Inspector General's Records
.010 Investigative File System

Part 2. Customer Systems of Records

500.000 Address Change, Mail Forwarding, and Related Services
510.000 Registration, Fulfillment of Products and Services
.100 *www.usps.com* Registration
.200 *www.usps.com* Ordering, Payment and Fulfillment
.300 Offline Registration, Payment and Fulfillment

520.000 Mail Management and Tracking
.100 Mailer Services—Applications and Approvals
.200 Mail Management and Tracking Activity
530.000 Customer Service and Correspondence
540.000 Customer Delivery Instructions
550.000 Auction Files
560.000 Financial Transactions
570.000 Trust Funds and Transaction Records
.100 Trust Funds and Transaction Records
.200 Meter Postage and PC Postage Customer Data and Transaction Records
580.000 Post Office and Retail Services
590.000 Sales, Marketing, Events, and Publications
600.000 International Services
610.000 Identity and Document Verification Services

Section C. Privacy Act Protections

Privacy Act

The Privacy Act of 1974, 5 U.S.C. 552a, applies to Federal agencies, including the Postal Service. The Privacy Act provides protections for personal information that an agency maintains in a system of records. A system of records describes a file, database, or program from which information is retrieved about an individual by name or other personal identifier.

Privacy Act Protections

The Privacy Act establishes recordkeeping, access, and nondisclosure requirements for information maintained in a system of records. The Privacy Act requires agencies to publish a description of each system of records to provide full information on how personal information within the system is treated. This includes how information is collected, used, disclosed, stored, and disposed of. It also includes how individuals can obtain access to, correct, and amend, information relating to themselves that is stored in the system.

The Privacy Act places limitations and requirements on how information from within a system can be disclosed, as described below. Sections D and E contain the complete description of routine uses that apply to the Postal Service systems of records.

Authorized Disclosures and Routine Uses

Under the Privacy Act, information can only be disclosed from a system, internally or externally, under one of two conditions.

1. The individual has authorized the disclosure in writing.
2. The disclosure fits within one of 12 specified categories.

The following is a description of disclosures, including those authorized by the Privacy Act, Postal Service routine uses, and regulations.

Disclosures Authorized by the Privacy Act

The Privacy Act authorizes disclosures in the following 12 circumstances. To see the official text of the Privacy Act, see 5 U.S.C. 552a(b).

Under the Privacy Act, disclosures are authorized:

1. To agency employees who need the information to perform their job.
2. As required by the Freedom of Information Act (FOIA).
3. For routine uses for which the agency has provided proper notice.
4. To the Bureau of the Census for purposes related to census and survey activities.
5. To a recipient who provides advance written assurance that the information will only be used for statistical research or reporting, and the information provided does not identify individuals.
6. To the National Archives and Records Administration for historic preservation purposes.
7. To other domestic government agencies for a civil or criminal law enforcement activity if the activity is authorized by law. In such cases, the agency head must specify in writing both the law enforcement activity and the particular information needed.
8. To a person upon a showing of compelling circumstances affecting an individual's health or safety. The agency must send notice of the disclosure to the individual's last known address.
9. To Congress, or to any of its committees or subcommittees, to the extent the matter is within their jurisdiction.
10. To the Comptroller General in the performance of duties of the General Accounting Office.
11. Pursuant to the order of a court of competent jurisdiction.
12. To a consumer reporting agency in order to collect claims owed to the Government.

Postal Service Disclosures and Routine Uses

The Privacy Act allows agencies to disclose information from a system of records if they establish a routine use describing the disclosure (see 3 above). Under the Privacy Act, routine uses are defined as disclosures that are compatible with the purpose for which the information was collected—in other words, disclosures that are appropriate and necessary for the efficient conduct of government business. Routine uses for each system of records are established by publishing them in a **Federal Register** notice that describes the system. They must also be disclosed in a notice given to an individual when information is collected directly from the individual. Routine uses that apply to general and customer systems of records are contained in Sections D and E, respectively.

The Privacy Act also allows disclosures required by the Freedom of Information Act (FOIA). Postal Service regulations implementing the Privacy Act and FOIA are contained in 39 CFR parts 261–268. Postal Service regulations describe treatment for particular FOIA and other requests, and describe exemptions permitting nondisclosure for certain personal and business information as allowed by FOIA.

Section D. Prefatory Statement of Routine Uses That Apply to the General Systems of Records

General Systems of Records

Section D includes routine uses for general systems of records. General systems include systems relating to employees, Finance, Postal Inspection Service, litigation, and other systems that are not primarily related to Postal Service customers.

Routine Uses for General Systems

The following are routine uses for general systems of records. (**Note:** The letter ''i'' was not used.) Each system notice indicates which standard routine uses are incorporated, as well as any specific routine uses that apply.

a. *Disclosure for Law Enforcement Purposes.* When the Postal Service becomes aware of an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, or in response to the appropriate agency's request on a reasonable belief that a violation has occurred, the relevant records may be referred to the appropriate agency, whether Federal, state, local, or foreign, charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

b. *Disclosure Incident to Litigation.* Records from this system may be disclosed to the U.S. Department of Justice or the other counsel representing the Postal Service, or may be disclosed in a proceeding before a court or adjudicative body before which the Postal Service is authorized to appear, when (a) the Postal Service; or (b) any

Postal Service employee in his or her official capacity; or (c) any Postal Service employee in his or her individual capacity whom the Department of Justice has agreed to represent; or (d) the United States when it is determined that the Postal Service is likely to be affected by the litigation, is a party to litigation or has an interest in such litigation, and such records are determined by the Postal Service or its counsel to be plausibly relevant to the litigation, provided, however, that in each case, the Postal Service determines that disclosure of the records is a use of the information that is compatible with the purpose for which it was collected. This routine use specifically contemplates that information may be released in response to relevant discovery and that any manner of response allowed by the rules of the forum may be employed.

c. *Disclosure Incident to Requesting Information.* Records may be disclosed to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, when necessary to obtain information from such agency that is relevant to a Postal Service decision about the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, permit, or other benefit.

d. *Disclosure to Requesting Agency.* Records may be disclosed to a Federal, state, local, or foreign agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conduct of a security or suitability investigation of an individual, the reporting of an investigation of an employee, the letting of a contract, or the issuance or a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. *Congressional Inquiries.* Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the prompting of that individual.

f. *Disclosure to Agents and Contractors.* Records or information from this system may be disclosed to an expert, consultant, or other individual who is under contract to the Postal Service to fulfill an agency function, but only to the extent necessary to fulfill that function. This may include disclosure to any individual with whom the Postal Service contracts to reproduce by typing, photocopy, or other means, any record for use by Postal Service officials in connection with their official duties or to any individual who performs clerical or stenographic functions relating to the official business of the Postal Service.

g. *Storage.* Inactive records may be transferred to a Federal records center for Storage prior to destruction.

h. *Disclosure to Office of Management and Budget.* Records from this system may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

j. *Disclosure to Outside Auditors.* Records in this system may be subject to review by an independent certified public accountant during an official audit of Postal Service finances.

k. *Disclosure to Equal Employment Opportunity Commission.* Records from this system may be disclosed to an authorized investigator, administrative judge, or complaints examiner appointed by the Equal Employment Opportunity Commission, when requested in connection with the investigation of formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1614.

l. *Disclosure to Merit Systems Protection Board or Office of the Special Counsel.* Records from this system may be disclosed to the Merit Systems Protection Board or Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies, investigations of alleged or possible prohibited personnel practices, and such other functions as may be authorized by law.

m. *Disclosure to Labor Organizations.* Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization when needed by that organization to properly perform its duties as the collective bargaining representative of Postal Service employees in an appropriate bargaining unit.

Section E. Prefatory Statement of Routine Uses That Apply to Customer Systems

Customer Systems of Records

Section E includes routine uses for systems of records containing information relating to Postal Service customers.

Routine Uses for Customer Systems

The following standard routine uses apply to Postal Service systems of records for customer information. The routine uses fall into three categories: (1) Disclosures that are legally required (such as in a legal proceeding); (2) disclosures that facilitate the customer transaction (such as sharing data with contractors assisting in the program); and (3) disclosures for the benefit of the customer (such as sharing with a congressional office at a customer's behest). A system may have an additional routine use or uses on occasion. Those routine uses will be disclosed in each system notice.

1. *Disclosure for Law Enforcement Purposes.* Relevant records may be disclosed to appropriate law enforcement agencies to investigate, prevent, or take action regarding suspected illegal activities against the Postal Service. Records may be disclosed to other law enforcement agencies as required by law.

2. *Disclosure Incident to Legal Proceedings.* When the Postal Service has an interest in litigation or other legal proceedings before a state, Federal, local, administrative, or foreign adjudicative body, relevant records may be disclosed before that adjudicative body and/or to the Department of Justice or other legal counsel representing the Postal Service or its employees, and in response to relevant discovery.

3. *Disclosure to Government Agencies.* Relevant records may be disclosed to a Federal, state, local or foreign government agency when necessary in connection with decisions by the requesting agency, or by the Postal Service, regarding personnel matters, issuance of security clearances, letting of contracts, or decisions to issue licenses, grants, or other benefits.

4. *Congressional Inquiries.* Relevant records about an individual may be disclosed to a congressional office in response to an inquiry from the congressional office made at the prompting of that individual.

5. *Disclosure to Agents, Contractors, and Partners.* Relevant records may be disclosed to entities under contract or agreement with the Postal Service, when necessary to fulfill a Postal Service function or to provide Postal Service products and services to customers.

6. *Disclosure to Agencies and Entities for Financial Transactions.* Relevant records may be disclosed to credit bureaus, government agencies, and service providers that perform identity verification and credit risk assessment services; to financial institutions or payees to facilitate or resolve issues with payment services; or to collection agencies for the purposes of debt collection.

7. *Disclosure to Auditors.* Relevant records may be disclosed to government

agencies and other entities authorized to audit the Postal Service and Postal Service activities, including financial and other audits of the Postal Service.

8. *Disclosure for Customer Service Purposes.* Relevant records may be disclosed to entities if the disclosure is part of the service to the customer. This includes disclosures to addressees of mail to process inquiries and claims; entities to which the customer wants to provide identity verification; the State Department for passport processing; international posts or agents to process international services or inquiries; or disclosures to mailers of sexually oriented advertisements of a list of individuals who do not want to receive them.

9. *Disclosure to Labor Organizations.* Pursuant to the National Labor Relations Act, records may be furnished to a labor organization when needed by that organization to perform properly its duties as the collective bargaining representative of Postal Service employees in an appropriate bargaining unit.

Section F. Deletion of 22 Systems of Records

The following systems have been deleted. The records from the deleted systems are contained in the 16 new systems of records as follows:

010.010 Address Change, Mail Forwarding, and Related Services Records is incorporated into 500.000 Address Change, Mail Forwarding, and Related Services.

400.010 USPS eServices Registration System Records is incorporated into 510.100 usps.com Registration Services.

040.050 Customer Electronic Document Preparation and Delivery Records is incorporated into 510.200 www.usps.com Ordering, Payment and Fulfillment Services.

220.030 Postal Products Sales and Distribution is incorporated into 510.300 Offline Registrations, Payment, and Fulfillment.

010.050 Delivery of Mail Through Agents, 010.060 Free Matter for Blind and Visually Handicapped Persons, 010.070 Mailbox Irregularities, and *040.020 Sexually Oriented Advertisements* are incorporated into 540.000 Customer Delivery Instructions.

040.030 Auction Customer Address File is incorporated into 550.000 Auction Files.

040.060 Customer Electronic Bill Presentment and Payment Records; 050.050 International Money Transfer Transaction and Inquiry Records; 050.070 Funds Transaction/Transfer Reports; and *050.080 Suspicious Transaction Reports* are incorporated into 560.000 Financial Transactions.

220.020 Express Mail Service Customer Mailing List is incorporated into 570.100 Trust Funds and Transaction Records

140.020 Postage—Postage Evidencing System Records is incorporated into 570.200 Meter Postage and PC Postage Customer Data and Transaction Records.

010.020 Boxholder Records, 090.020 Passport Application Records, 160.010 Domestic Insured, Registered, Collect on Delivery (COD), and Express Mail Claim and Inquiry Records, and *160.020 International Ordinary, Insured, Registered, and Express Mail Inquiry and Application for Indemnity Records* are incorporated into 580.000 Post Office and Retail Services.

220.010 Marketing Database—Customer Records and *040.010 Memo to Mailers Address File* are incorporated into 590.000 Sales, Marketing, Events, and Publications.

010.090 Customer Public Key Certificate Records is incorporated into 610.000 Identity and Document Verification Services.

Section G. Advance Notice of New Systems

Reports of new systems of records, as required by 5 U.S.C. 552a (o), have been submitted to OMB and Congress pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records about Individuals.''

The following 16 new systems contain records relating to Postal Service customers:

500.000 Address Change, Mail Forwarding, and Related Services

This system includes records relating to change of address, mail forwarding, and related services performed online or offline.

510.100 www.usps.com Registration

This system includes records relating to customers who register on *http://www.usps.com.*

510.200 www.usps.com Ordering, Payment, and Fulfillment

Customers are required to provide information when ordering products or services on *http://www.usps.com*. This system includes records relating to the ordering, payment, and fulfillment for these products and services. Products and services include stamps, Postal Service products, shipping supplies, and shipping services, such as obtaining delivery status information, receipts, and labels.

510.300 Offline Registration, Payment and Fulfillment

This system includes records relating to customers who register, and/or order products or services by offline means. This system includes records related to the following activities: stamps and products by mail, catalog, phone, or fax; customer loyalty programs; package service pick-up; and shipping supplies ordering and fulfillment offline.

520.100 Mailer Services—Applications and Approvals

This system includes records relating to customers who wish to use mail management and tracking products and services. This includes records relating to applications and approvals for programs including the following: CONFIRM, PostalOne!, presort accuracy systems, drop ship appointments, ePubWatch, and registration for Confirmation Services and Special Services.

520.200 Mail Management and Tracking Activity

This system includes records relating to customers who use mail management and tracking services. This includes records related to orders for redelivery and hold mail services; schedule drop ship appointments; receive feedback on mailing efficiency; track their mailings; order mail transportation equipment; and receive electronic transmissions of mail scan information. Programs covered include: PostalOne!, CONFIRM, ePubWatch, drop ship appointments, Delivery Unit Notification, Confirmation Services, and Special Services for which the customer has registered.

530.000 Customer Service and Correspondence

This system includes records related to customer service interactions. The system includes records related to customer service support provided by or for the following: Business Service Networks, Nonprofit Mailing Support; mail management and tracking products and services; Delivery Confirmation service and Special Services; and other telephone, e-mail and correspondence-based customer service interactions.

540.000 Customer Delivery Instructions

This system includes records relating to special delivery requirements. The system includes delivery instructions for the following customers: Customers who receive mail delivery through agents; customers who are visually disabled and receive free mail matter; customers with noncompliant mailboxes; and customers who request that certain types of mail not be delivered.

550.000 Auction Files

This system includes records relating to individuals who request information about or participate in auctions of surplus and/or undeliverable items. This system includes records relating to online and offline auctions, performed directly by the Postal Service or by third parties.

560.000 Financial Transactions

This system includes records relating to financial transactions. Financial transactions include funds transfers and online payment services, claims and inquiries related to online payment services, funds transfers, money orders, and stored-value cards. The records include documentation of certain transactions required by anti-money laundering statutes and regulations.

570.100 Trust Funds and Transaction Records

This system includes records collected from customers who open, maintain, and use trust fund payment accounts. This system includes records relating to Permit, CAPS, PostalOne!, and Express Mail Corporate Accounts.

570.200 Meter Postage and PC Postage Customer Data and Transaction Records

This system includes records relating to meter and PC Postage registration, usage, and payment.

580.000 Post Office and Retail Services

This system includes records relating to retail transactions conducted at Post Offices and other locations. This includes records relating to the following: Passport applications and payment; Post Office box and caller services; and the use of self-service equipment. The system also contains records relating to special mail services including: Domestic Insured Mail or Registered Mail; collect on delivery (COD); insured, registered, and recorded international mail; domestic and international Express Mail; and inquiries and claims related to special mail services. (**Note:** Financial services, such as funds transfers, are covered by the system of records for Financial Transactions.)

590.000 Sales, Marketing, Events, and Publications

This system includes records relating to customer interactions with sales personnel, responses to marketing messages, orders for Postal Service publications, and attendance at events. This system includes records relating to the following activities: Sales; marketing (including business reply cards, e-mail campaigns, and telephone-based marketing interactions); subscriptions to Postal Service publications such as ''Memo to Mailers''; customer contests and surveys; and Postal Service events such as the National Postal Forum (NPF) and meetings of Postal Customer Councils (PCCs) and the Mailers Technical Advisory Committee (MTAC).

600.000 International Services

This system includes records relating to international transactions and services, including compliance with domestic and foreign customs requirements. This includes records relating to Customs Pre-Advisory System (CPAS), International Customized Mail Agreements, and international tray label tracking.

610.000 Identity and Document Verification Services

This system contains records related to Postal Service identity and document verification and authentication services. The services provide verification and authentication services, enhanced mail security, and enhanced customer service. Programs in the system include authentication services (such as verifying identities at Postal Service facilities), public key certificates, and electronic postmarks.

Section H. Complete Text of New Systems

This part contains the complete text of the Postal Service's customer-related Privacy Act systems of records.

USPS 500.000

SYSTEM NAME:

Address Change, Mail Forwarding, and Related Services.

SYSTEM LOCATION:

Postal Service National Customer Support Center (NCSC), Computerized Forwarding System (CFS) sites, Post Offices, and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers requesting change of address, mail forwarding or other related services either online or offline. Customers who are victims of a natural disaster who request mail forwarding services through the American Red Cross.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Name, title, signature, customer number, old address, new address, filing date, and other contact information.
2. Verification and payment information: Credit and/or debit card number, type, and expiration date; information for identity verification; billing information.
3. Demographic information: Designation as individual/family/business.
4. Customer preferences: Permanent or temporary move; mail forwarding instructions; service requests and responses.
5. Customer inquiries and comments: Description of service requests and responses.
6. Records from service providers, including for move-related services, such as name of provider; customer name, number, and contact information; information related to products purchased, billing, and customer service; and records for identity verification.
7. Optional customer information: Information a customer chooses to save to apply to future transactions, such as names, addresses, proof of identification, billing, and other information used to request a service.
8. Protective Orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To provide mail forwarding and change of address services.
2. To provide address correction services.
3. To provide address information to the American Red Cross about a customer who has been relocated because of disaster.
4. To provide customers the ability to contact providers of move-related services (e.g., moving vans or supplies).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the standard routine uses for customer-related systems, the following additional routine uses also apply:

a. Disclosure upon request. The new address of a specific business or organization that has filed a permanent change of address order may be furnished to any individual on request. (Note: The new address of an individual or family will not be furnished pursuant to this routine use, but only when authorized by one of the standard routine uses listed above or one of the specific routine uses listed below.)

b. Disclosure for Address Correction. Disclosure of any customer's new permanent address may be made to a mailer, only if the mailer is in possession of the old address: From the National Change of Address file if the mailer is seeking corrected addresses for a mailing list; from the CFS if a mailpiece is undeliverable as addressed; or from the Locatable Address Correction System if an address designation has been changed or assigned. Copies of change of address orders may not be furnished.

c. Disclosure for Voter Registration. Any customer's permanent change of address may be disclosed to a duly formed election board or registration commission using permanent voter registration. Copies of change of address orders may be furnished.

d. Disclosure to Government Agency. Any customer's permanent or temporary change of address information may be disclosed to a Federal, state, or local government agency upon prior written certification that the information is required for the performance of its duties. A copy of the change of address order may be furnished. Name and address information may be disclosed to government planning authorities, or firms under contract with those authorities, if an address designation has been changed or assigned.

e. Disclosure to Law Enforcement Agency. Any customer's permanent or temporary change of address information may be disclosed to a law enforcement agency, for oral requests made through the Postal Inspection Service, but only after the Postal Inspection Service has confirmed that the information is needed for a criminal investigation. A copy of the change of address order may be furnished.

f. Disclosure for Service of Process. Any customer's permanent or temporary change of address information may be disclosed to a person empowered by law to serve legal process, or the attorney for a party in whose behalf service will be made, or a party who is acting pro se, upon receipt of written information that meets prescribed certification requirements. Disclosure will be limited to the address of the specifically identified individual (not other family members or individuals whose names may also appear on the change of address order). A copy of the change of address order may not be furnished.

g. Disclosure for Jury Service. Any customer's change of address information may be disclosed to a jury commission or other court official, such as a judge or court clerk, for purpose of jury service. A copy of the change of address order may be furnished.

h. Disclosure at Customer's Request. If the customer elects, change of address information may be disclosed to government agencies or other entities, and requests for move-related services may be forwarded to the specified service provider.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Change of address orders are maintained on file at the delivery unit. They are filed alphabetically by name within a month. Records generated from the source document are recorded on the Forwarding Control system file server and on 8-mm tapes at CFS units. Electronic change of address records and related service records are also stored on disk and/or magnetic tape in a secured environment. Change of address records are consolidated in a National Change of Address (NCOA) File at the NCSC. Selected extracts of NCOA are provided to a limited number of firms under contract or license agreement with the Postal Service. Records pertaining to move-related services are also transmitted to specific service providers, including government agencies and private companies under contract to the Postal Service.

RETRIEVABILITY:

Records are retrieved by the following methods:

For paper records: by name, address, date, and ZIP Code.

For electronic records: by name, address, date, ZIP Code, and customer number for electronic change of address and related service records; by name, address, and e-mail address for customer service records; by service provider name or number for service provider records.

SAFEGUARDS:

Access to and use of these records is limited to those individuals whose official duties require such access. Contractor/licensee is subject to contract controls and unannounced on-site audits and inspection by the Postal Inspection Service.

RETENTION AND DISPOSAL:

National change of address records are retained for 4 years from the effective date.

Records saved at the customer's option are retained until the customer notifies the Postal Service to delete the previous transaction records or the account is disabled for inactivity. The customer may request modifications to saved records at any time, and those modifications will be executed upon receipt of that request.

All other records are retained for up to 18 months. Records are destroyed or deleted at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Technology Officer and Senior Vice President, United States Postal Service, 475 L'Enfant Plz. SW., Washington DC 20260.

Vice President, Delivery and Retail, United States Postal Service, 475 L'Enfant Plz. SW., Washington DC 20260.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name, address, effective date of change order, route number (if known), and ZIP Code. Customers wanting to know if information about them is also maintained in the NCOA File should address such inquiries to: Manager, NCOA, National Customer Support Center, United States Postal Service, 6060 Primacy Parkway, Memphis TN 38188–0001.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers, personnel, and service providers.

USPS 510.100

SYSTEM NAME:

http://www.usps.com Registration.

SYSTEM LOCATION:

Information Systems Service Centers (ISSC), Postal Service Headquarters Marketing, and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who register via the Postal Service Web site at *http://www.usps.com*.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Name; customer ID(s); company name; job title and role; home, business, and billing address; home and business phone and fax number; e-mail; URL; and Automated Clearing House (ACH) information.

2. Identity verification information: Question, answer, username, user ID, and password.

3. Business specific information: Business type and location, business IDs, annual revenue, number of employees, industry, nonprofit rate status, product usage information, annual and/or monthly shipping budget, payment method and information, planned use of product, and age of Web site.

4. Customer preferences: Preferences to receive Postal Service marketing information, preferences to receive marketing information from Postal Service partners, preferred means of contact, preferred e-mail format, product and/or service marketing preference.

5. Customer feedback: Method of referral to Web site.

6. Registration information: Date of registration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To provide online registration services for customers.

2. To obtain accurate contact information in order to deliver requested products, services, and other material.

3. To authenticate customer logon information for *http://www.usps.com.*

4. To permit customer feedback in order to improve *http://www.usps.com* or Postal Service products and services.

5. To enhance understanding and fulfillment of customer needs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated database, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, customer ID(s), phone number, or mail or e-mail address.

SAFEGUARDS:

Paper records, computers, and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers are protected by a cipher lock system, card key system, or other physical access control methods. Computer systems are also protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and use identifications, and file management. Online data transmissions are protected by encryption.

For small business registration, computer Storage tapes and disks are maintained in controlled-access areas or under general scrutiny of program personnel. Access is controlled by logon ID and password as authorized by the Marketing organization via secure Web site. Online data transmissions are protected by encryption.

Access to these records is limited to authorized personnel. Contractors must provide similar protection subject to a security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

ACH records are retained for up to 2 years.

Records stored in the registration database are retained until the customer cancels the profile record, for 3 years after the customer last accesses records, or until the relationship ends.

For small business registration, records are retained for 5 years after the relationship ends.

Records are destroyed or deleted at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St., Arlington VA 22209.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries must contain name, address, and other identifying information.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

USPS 510.200

SYSTEM NAME:

www.usps.com Ordering, Payment, and Fulfillment.

SYSTEM LOCATION:

Postal Service Marketing Headquarters; Information Systems Service Centers (ISSC); Philatelic Fulfillment Centers; Post Offices; and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who place orders and/or make payment for Postal Service products and services through *http://www.usps.com.*

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Name, customer ID(s), phone and/or fax number, mail and e-mail address.

2. Payment information: Credit and/or debit card number, type, and expiration date, billing information, Automated Clearing House (ACH) information.

3. Shipping and transaction information: Product and/or service ID numbers, descriptions, and prices; name and address(es) of recipients; order number and delivery status; electronic address lists; electronic documents or images; job number.

4. Claims submitted for defective merchandise.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To fulfill orders for Postal Service products and services.

2. To promote increased use of the mail by providing electronic document preparation and mailing services for customers.

3. To provide shipping supplies and services, including return receipts and labels.

4. To provide recurring ordering and payment services for products and services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, customer ID(s), phone number, mail or e-mail address, or job number.

SAFEGUARDS:

Paper records and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers containing information are located in controlled-access areas with personnel access controlled by a cipher lock system, card key system, or other physical access control method. Computer systems are protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and user identifications, and file management. Online data transmission is protected by encryption, dedicated lines, and authorized access codes. For shipping supplies, data is protected within a stand-alone system within a controlled-access facility.

Access to these records is limited to those persons whose official duties require such access. Contractors must provide similar protection subject to contract controls and security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

Records related to mailing online and online tracking and/or Confirmation Services supporting a customer order are retained for up to 30 days from completion of fulfillment of the order, unless retained longer by request of the customer. Records related to shipping services and domestic & international labels are retained for 90 days. Delivery Confirmation and return receipt records are retained for 6 months. Signature Confirmation records are retained for 1 year. ACH records are retained for up to 2 years.

Other customer records are retained for 3 years after the customer relationship ends.

Records are destroyed or deleted at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St., Arlington VA 22209.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries must contain name, address, customer ID(s), and order number, if known.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

USPS 510.300

SYSTEM NAME:

Offline Registration, Payment, and Fulfillment.

SYSTEM LOCATION:

Postal Service Marketing Headquarters; Information Systems Service Centers (ISSC); Philatelic Fulfillment Service Center; area and district facilities; Post Offices; and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who register for Postal Service programs, place orders and/or make payment for Postal Service products and services via offline means.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Name, customer ID(s), company name, job title, home, business, and billing address(es), phone number(s), fax number(s), e-mail, URL, verification question and answer, username, and password.
2. Payment information: Credit and/or debit card number, type, and expiration date; billing name and address; check; money order, Automated Clearing House (ACH) information.
3. Shipping information: Product and/or service ID number, name and address of recipient.
4. Customer preferences: Preferences to receive Postal Service marketing information, preferences to receive marketing information from Postal Service partners, preferred contact media, preferred e-mail format, product and/or service marketing preference.
5. Customer feedback: Method of referral.
6. Order processing: Inquiries on status of orders; claims submitted for defective merchandise; lists of individuals who have submitted bad checks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To provide offline registration services for customers.
2. To fulfill requests for Postal Service products, services, and other materials.
3. To authenticate customer information and permit customer feedback.
4. To operate recurring ordering and payment services for products and services.
5. To enhance understanding and fulfillment of customer needs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper forms.

RETRIEVABILITY:

By customer name, customer ID(s), phone number, mail or e-mail address, or order number.

SAFEGUARDS:

Paper records and computer Storage tapes and disks are maintained in controlled-access areas or under general scrutiny of program personnel. Computers containing information are located in controlled-access areas with personnel access controlled by a cipher lock system, card key system, or other physical access control method. Computer systems are protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and user identifications, and file management. Online data transmission is protected by encryption, dedicated lines, and authorized access codes. For shipping supplies, data is protected within a stand-alone system within a controlled-access facility.

Access to these records is limited to those persons whose official duties require such access. Contractors must provide similar protection subject to contract controls and security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

ACH records are retained for up to 2 years. Other records are retained for up to 3 years after the customer relationship ends.

Records are destroyed or deleted at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St., Arlington, VA 22209.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries must contain name, address, and other identifying information.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

USPS 520.100

SYSTEM NAME:

Mailer Services—Applications and Approvals.

SYSTEM LOCATION:

Postal Service Headquarters; Information Systems Service Centers (ISSC); National Customer Support Center (NCSC); district facilities; detached mailing units; and facilities that access Postal Service computers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who apply for mail management and tracking products or services.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Applicant and key contacts name, mail and e-mail address, phone number, fax number, customer ID(s), job title and/or role, employment status, company name, location, industry, monthly shipping budget, annual revenue, payment information, Automated Clearing House (ACH) information.

2. Customer or product identification and authentication: User and manager customer ID(s) and/or passwords; customer signature, date, last four digits of Social Security Number (SSN); Postal Service site; security personnel name, signature, date, telephone number, and last four digits of SSN; Postal Service location information; D–U–N–S® Number; postage meter numbers; permit numbers; POSTNET code; mailer ID(s); publication name(s) and ID(s); and name(s) of authorized users.

3. Mail practices and delivery information: Type of mailing equipment and/or containers used, mail preparation information, drop shipment sites and codes, compatibility with mailing automation equipment, presort options and tests, frequency of mailings, mail volume, primary type of mailing, destination information, use of contracted mail services, names and addresses of contractors and advertisers, publication name(s) and ID(s), and appointment times.

4. Technical information: Hardware, software, and equipment names, types, versions, and specifications; media preferences; mail site specifications.

5. Product usage and payment information: Package volumes, package weights, product ordered, quantity ordered, billing information, products used, ordered date, inventory date, and usage measure dates.

6. Customer feedback: Method of referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To provide application services for mail management and tracking products and services.

2. To authenticate applicant information, assign computer logon IDs, and qualify and assist users.

3. To provide product and/or service updates, service, and support.

4. To collect accurate technical data to ensure the proper operation of electronic data transmission and software.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated database, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, customer ID(s), or logon ID.

SAFEGUARDS:

Paper records, computers, and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers are protected by a cipher lock system, card key system, or other physical access control methods. Computer systems are also protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and use identifications, and file management. Online data transmissions are protected by encryption.

Access to these records is limited to authorized personnel, who must be identified with a badge. Contractors must provide similar protection subject to a security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

Logon records are retained for 1 year after computer access. ACH records are retained for up to 2 years. Security access records are retained for 2 years after computer access privileges are cancelled.

Other customer records are retained for 4 years after the customer relationship ends.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St., Arlington, VA 22209.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries should contain name, customer ID(s), if any, and/or logon ID.

RECORD ACCESS PROCEDURES:

Requests for access much be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

USPS 520.200

SYSTEM NAME:

Mail Management and Tracking Activity.

SYSTEM LOCATION:

Postal Service Headquarters; Information Systems Service Centers (ISSC); and Mail Transportation Equipment Service Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who use Postal Service mail management and tracking services.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Customer or contact name, mail and e-mail address, title or role, and phone number.

2. Identification information: Customer ID(s), last four digits of Social Security Number (SSN), D–U–N–S

Number; mailer and mailing ID, advertiser name/ID, username, and password.

3. Data on mailings: Paper and electronic data on mailings, including postage statement data (such as volume, class, rate, postage amount, date and time of delivery, mailpiece count), destination of mailing, delivery status, mailing problems, presort information, reply mailpiece information, container label numbers, package label, Special Services label, article number, and permit numbers.

4. Payment information: Credit and/or debit card number, type, and expiration date; Automated Clearing House (ACH) information.

5. Customer preference data: Hold mail begin and end date, redelivery date, delivery options, shipping and pickup preferences, drop ship codes, comments and instructions, mailing frequency, preferred delivery dates.

6. Product usage information: Special Services label and article number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To provide mail acceptance, induction, and scheduling services.

2. To fulfill orders for mail transportation equipment.

3. To provide customers with information about the status of mailings within the Postal Service network.

4. To help mailers identify performance issues regarding their mail.

5. To provide delivery units with information needed to fulfill requests for mail redelivery and hold mail service at the address and for the dates specified by the customer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, customer ID(s), or logon ID.

SAFEGUARDS:

Paper records, computers, and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers are protected by a cipher lock system, card key system, or other physical access control methods. Computer systems are also protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and use identifications, and file management. Online data transmissions are protected by encryption.

Access to these records is limited to authorized personnel, who must be identified with a badge. Contractors must provide similar protection subject to a security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

CONFIRM records are retained for up to 30 days. Records related to ePubWatch, Confirmation Services and hold mail services are retained for up to 1 year. Special Services and drop ship records are retained for 2 years. ACH records are retained for up to 2 years.

Other records are retained for 4 years after the relationship ends.

Records are destroyed or deleted at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St., Arlington VA 22209.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries should contain name, customer ID(s), if any, and/or logon ID.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

SYSTEM LOCATION:

Postal Service Consumer Advocate, Headquarters; Information Systems Service Centers (ISSC); the Integrated Business Systems Solutions Center (IBSSC); the National Customer Support Center (NCSC); districts, Post Offices, contractor sites; and detached mailing units at customer sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records relating to customers who contact customer service by online and offline channels. This includes customers making inquiries via e-mail, 1–800–ASK–USPS, other toll-free contact centers, or the BSN, as well as customers with product-specific service or support issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: customer and key contact name, mail and e-mail address, phone and/or fax number; customer ID(s); title, role, and employment status; company name, location, type and URL; vendor and/or contractor information.

2. Identity verification information: Last four digits of Social Security Number (SSN), username and/or password, D–U–N–S Number, mailer ID number, publisher ID number, security level and clearances, and business customer number.

3. Product and/or service use information: Product and/or service type, product numbers, technology specifications, quantity ordered, logon and product use dates and times, case number, pickup number, article number, and ticket number.

4. Payment information: Credit and/or debit card number, type, and expiration date; billing information; checks, money orders, or other payment method.

5. Customer preferences: Drop ship sites and media preference.

6. Service inquiries and correspondence: Contact history; nature of inquiry, dates and times, comments, status, resolution, and Postal Service personnel involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To enable review and response services for customer inquiries and concerns regarding the Postal Service and its products and services.

2. To ensure that customer accounts and needs are attended to in a timely manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, customer ID(s), mail or e-mail address, phone number, customer account number, case number, article number, pickup number, and last four digits of SSN, ZIP Code, or other customer identifier.

SAFEGUARDS:

Paper records, computers, and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers are protected by a cipher lock system, card key system, or other physical access control methods. Computer systems are also protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and use identifications, and file management. Online data transmissions are protected by encryption.

Access to these records is limited to authorized personnel, who must be identified with a badge. Contractors must provide similar protection subject to a security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

Customer care records for usps.com products are retained for 90 days. Records related to 1–800-ASK-USPS, Delivery Confirmation service, Special Services, and international call centers are retained for 1 year. Customer complaint records are retained for 3 years. Business Service Network records are retained for 5 years.

Other records are retained for 2 years after resolution of the inquiry.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President and Consumer Advocate, United States Postal Service, 475 L'Enfant Plz. SW., Washington DC 20260–2200.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records must address inquiries to the system manager in writing. Inquiries should include name, address, and other identifying information.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

USPS 540.000

SYSTEM NAME:

Customer Delivery Instructions.

SYSTEM LOCATION:

Postal Service Headquarters, Prohibitory Order Processing Center, districts, Information Systems Service Centers (ISSC), and Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Customers requesting delivery of mail through an agent and the agent to whom the mail is to be delivered.

2. Customers who are visually disabled and cannot use or read conventionally printed material and who are receiving postage-free service in their delivery areas.

3. Customers whose mailboxes do not comply with Postal Service standards and regulations.

4. Customers who elect to have their name and address, or the name and address of their children under 19 years of age or a deceased spouse, placed on the list of individuals who do not want to receive sexually oriented advertisements through the mail.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: name, address, phone number, customer ID(s), signature, application number, names and birthdates of children under 19; reports of mailbox irregularities and date; postmaster signature.

2. Verification information: photocopies of IDs, customer name, address, signature, statement from competent authority as being visually impaired.

3. Agency information: agent name, address, signature, and phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, 404, 3010, and 3403.

PURPOSE(S):

1. To provide for efficient and secure mail delivery services.

2. To permit authorized delivery of mail to the addressee's agent.

3. To enable the efficient processing of mail for visually disabled customers.

4. To protect customers from mail fraud and identity theft.

5. To maintain a list, available to mailers of sexually oriented advertisements (SOAs) of individuals desiring not to receive such matter through the mail.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the standard routine uses for customer-related systems, the following additional routine use also applies:

Information may be disclosed for the purpose of identifying an address as an address of an agent to whom mail is delivered on behalf of other persons. This routine use does not authorize the disclosure of the identities of persons on behalf of whom agents receive mail.

All routine uses are subject to the following exception:

Information concerning an individual who has filed an appropriate protective court order with the postmaster will not be disclosed under any of the general routine uses except pursuant to the order of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, address, and application number, or by customer ID(s).

SAFEGUARDS:

Records are kept in file cabinets or computer Storage with access limited to those individuals whose official duties require such access. Contractors are subject to contract controls and unannounced onsite audits and inspection by the Postal Inspection Service. Automated records are subject to computer center access controls.

RETENTION AND DISPOSAL:

Records related to requests not to receive sexually oriented advertisements are retained for up to 5 years after request.

Other records are retained for 1 year from the date the customer relocates, cancels an order, corrects a cited mailbox irregularity, or terminates the special instruction.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

For SOA records: Vice President, Pricing and Classification, United States Postal Service, 1735 N Lynn Street, Arlington, VA 22209.

For other delivery records: Vice President, Delivery and Retail, United

States Postal Service, 475 L'Enfant Plz. SW., Washington, DC 20260.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system pertaining to mail delivery by agents, noncompliant mailboxes, or with regard to free matter for the visually disabled, must address inquiries to their local postmasters. Customers should include name, address, and other identifying information.

Customers wanting to know if information about them is maintained in this system pertaining to requests not to receive sexually oriented advertising must address inquiries to the system manager. Customers should include name, address, application number, and the date of filing, if applicable.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers; cosigners of the request for delivery of mail through an agent; medical personnel or other competent authorities; and Postal Service personnel.

USPS 550.000

SYSTEM NAME:

Auction Files.

SYSTEM LOCATION:

Postal Service Mail Recovery Centers, Information Systems Service Centers (ISSC), participating Post Offices, and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who participate in or request information about Postal Service auctions.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer Information: Name, customer ID(s), mail and e-mail address, and phone number.

2. Payment information: Online transaction information, credit and/or debit card number, type, and expiration date; check, or money order.

3. Customer feedback: Means of referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To maintain a list of names and addresses of customers participating in or requesting information about auctions.

2. To accurately process delivery and payment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, customer ID(s), or other identifier.

SAFEGUARDS:

Paper records and disks are kept in locked cabinets. Online data is password protected.

RETENTION AND DISPOSAL:

Records are retained for up to 1 year after entry.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President and Consumer Advocate, United States Postal Service, 475 L'Enfant Plz. SW., Washington, DC 20260.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system must address inquiries to the postmaster of the participating Post Office, or to the system manager for online auctions. Inquiries must contain full name, address, and other identifying information.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

USPS 560.000

SYSTEM NAME:

Financial Transactions.

SYSTEM LOCATION:

Postal Service Headquarters; Information System Service Centers; Accounting Service Centers; anti-money laundering support group; and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Customers who use online payment or funds transfer services.

2. Customers who file claims or make inquiries related to online payment services, funds transfers, money orders, and stored-value cards.

3. Customers who purchase funds transfers or stored-value cards in an amount of $1000 or more per day, or money orders in an amount of $3000 or more per day, or who purchase or redeem any such services in a manner requiring collection of information as potential suspicious activities under anti-money laundering requirements. Recipients of funds transfers and the beneficiaries of funds from money orders totaling $10,000 in one day.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Name, customer ID(s), mail and e-mail address, telephone number, occupation, type of business, and customer history.

2. Identity verification information: Date of birth, username and/or ID, password, Social Security Number (SSN) or tax ID number, and driver's license number (or other type of ID if driver's license is not available, such as Alien Registration Number, Passport Number, Military ID, Tax ID Number). (**NOTE:** For online payment services, SSNs are collected, but not retained, in order to verify ID.)

3. Billers registered for online payment services: biller name and contact information, bill detail, and bill summaries.

4. Transaction information: Name, address, and phone number of purchaser, payee, and biller; amount, date, and location; credit and/or debit card number, type, and expiration; sales, refunds, and fees; type of service selected and status; sender and recipient bank account and routing number; bill detail and summaries; transaction number, serial number, and/or reference number or other identifying number, pay out agent name and address; type of payment, currency, and exchange rate; Post Office information such as location, phone number, and terminal; employee ID numbers, license number and state, and employee comments.

5. Information to determine credit-worthiness: period at current residence, previous address, and period of time with same phone number.

6. Information related to claims and inquiries: name, address, phone number, signature, SSN, location where product was purchased, date of issue, amount, serial number, and claim number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404 and 31 U.S.C. 5318, 5325, 5331 and 7701.

PURPOSE(S):

1. To provide financial products and services.
2. To respond to inquiries and claims related to financial products and services.
3. To fulfill requirements of anti-money laundering statutes and regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply. Legally required disclosures to agencies for law enforcement purposes include disclosures of information relating to money orders, funds transfers, and stored-value cards as required by anti-money laundering statutes and regulations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated database, computer storage media, microfiche, and paper.

RETRIEVABILITY:

For online payment and funds transfer services, information is retrieved by customer name, customer ID(s), transaction number, or address.

Claim information is retrieved by name of purchaser or payee, claim number, serial number, transaction number, check number, customer ID(s), or ZIP Code.

Information related to anti-money laundering is retrieved by customer name; SSN; alien registration, passport, or driver's license number; serial number; transaction number; ZIP Code; transaction date; data entry operator number; and employee comments.

SAFEGUARDS:

Paper records, computers, and computer storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers are protected by a cipher lock system, card key system, or other physical access control methods. Computer systems are also protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and use identifications, and file management. Online data transmissions are protected by encryption.

Access to these records is limited to authorized personnel. Contractors must provide similar protection subject to contract controls and a security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

Summary records, including bill due date, bill amount, biller information, biller representation of account number, and the various status indicators, are retained for 2 years from the date of processing.

For funds transfers, transaction records are retained for 3 years.

Records related to claims are retained for up to 3 years from date of final action on the claim.

Forms related to fulfillment of anti-money laundering requirements are retained for 5 years from the end of the calendar quarter in which they were created.

Related automated records are retained for the same 5-year period and purged from the system quarterly after the date of creation.

Enrollment records related to online payment services are retained for 7 years after the subscriber's account ceases to be active or the service is cancelled.

Account banking records, including payment history, Demand Deposit Account (DDA) number, and routing number, are retained for 7 years from the date of processing.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer and Executive Vice President, United States Postal Service, 475 L'Enfant Plz. SW., Washington, DC 20260.

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N. Lynn St., Arlington, VA 22209.

NOTIFICATION PROCEDURE:

For online payment services, funds transfers, and stored-value cards, individuals wanting to know if information about them is maintained in this system must address inquiries in writing to the Chief Marketing Officer. Inquiries must contain name, address, and other identifying information, as well as the transaction number for funds transfers.

For money order claims and anti-money laundering documentation, inquiries should be addressed to the Chief Financial Officer. Inquiries must include name, address, or other identifying information of the purchaser (such as driver's license, Alien Registration Number, Passport Number, etc), and serial or transaction number. Information collected for anti-money laundering purposes will only be provided in accordance with Federal anti-money laundering laws and regulations.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers, recipients, financial institutions, and Postal Service employees.

USPS 570.100

SYSTEM NAME:

Trust Funds and Transaction Records.

SYSTEM LOCATION:

Postal Service Headquarters Marketing; Information Systems Service Centers (ISSC); district offices; Post Offices; and detached mailing units.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who are users of trust fund payment accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Customer and key contact name, mail and e-mail address, phone and fax number(s); D–U–N–S Number; customer ID(s), taxpayer ID number.
2. Transactional information: Permit authorizations and numbers, postage paid, postage class transaction dates, volume, weight, and revenue of mailing, postage indicium created, estimated annual postage, percent by mailing type, type of user, mailing data files including Postal Service location where the mail was entered.
3. Information necessary for processing electronic payments: Bank name, contact name, bank address and telephone number, bank account number, bank transit ABA number, voided check, credit and/or debit card number, type, and expiration date; Automated Clearing House (ACH) information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To establish and maintain trust fund accounts and process payments.
2. To ensure revenue protection.
3. To provide information and updates to users of these accounts.
4. To enhance understanding and fulfillment of customer needs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated database, computer Storage media, and paper.

RETRIEVABILITY:

By customer name or customer ID(s), account number, and/or address.

SAFEGUARDS:

Paper records, computers, and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers are protected by a cipher lock system, card key system, or other physical access control methods. Computer systems are also protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and use identifications, and file management. Online data transmissions are protected by encryption.

Access to these records is limited to authorized personnel, who must be identified with a badge. Contractors must provide similar protection subject to contract controls and a security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

ACH records are retained for up to 2 years.

Other records in this system are retained for up to 4 years after the relationship ends.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St., Arlington VA 22209.

NOTIFICATION PROCEDURE:

To access Permit records, customers must make a written request to their local postmaster. Correspondence must include name, address, account number, company name, mailing location, and a clear description of the issue.

To access all other records, customers must make a written request to the system manager. Correspondence must include name, address, account numbers, and other identifying information.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

USPS 570.200

SYSTEM NAME:

Meter Postage and PC Postage Customer Data and Transaction Records.

SYSTEM LOCATION:

Postal Service Headquarters Marketing, Postal Service facilities, Information Systems Security Centers (ISSC), and partner locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postage evidencing system users.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: customer ID(s), contact name, address, and telephone number; company name; and change of address information.
2. Identification information: Business customer number, license number, date of license issuance, device ID number, device model number, and certificate serial number.
3. Business-specific information: Estimated annual postage and annual percentage of mail by type, type of usage, and primary business function.
4. Transactional information: Post Office where mail is entered; number, amount, and date of postage purchases; ascending and descending register values; amount of unused postage refunded; contact telephone number; destinating five-digit ZIP Code, date, and rate category of each indicium created; and transaction documents.
5. Financial information: Credit and/or debit card number, type, expiration date, and transaction number; check and electronic fund transfer information; Automated Clearing House (ACH) information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To enable responsible administration of postage evidencing system activities.
2. To enhance understanding and fulfillment of customer needs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the standard routine uses for customer-related systems, the following additional routine use also applies:

The name and address of the holder of a postage meter license authorizing use of a postage meter printing a specified indicium will be furnished to any person provided the holder is using the license for a business or firm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By customer name and by numeric file of postage evidencing systems ID number, by customer ID(s), or customer license number.

SAFEGUARDS:

Paper records and computer Storage media are maintained in closed file cabinets in secured facilities. Automated records are protected by computer password. Information obtained from users over the Internet is transmitted electronically to the Postal Service by authorized postage evidencing system providers via a virtual private network.

RETENTION AND DISPOSAL:

ACH records are retained for up to 2 years. Records of payment are retained for up to 7 years.

Other records in this system are retained for up to 4 years after final entry or the duration of the license.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St, Arlington VA 22209.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records must address inquires in writing to: Manager, Postage

Technology Management, United States Postal Service, 1735 North Lynn St, Arlington VA 22209.

Inquiries should include the individual's name as it appears on the postage evidencing system license and the license number.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers; authorized service providers of postage evidencing systems; and Postal Service personnel.

USPS 580.000

SYSTEM NAME:

Post Office and Retail Services.

SYSTEM LOCATION:

Postal Service Headquarters, Consumer Advocate; Information Systems Service Centers (ISSC); Accounting Service Centers; and Postal Service facilities, including Post Offices (New Jersey, as an exception, does not store passport information in Post Offices), international claims and inquiry offices, and contractor locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Customers who apply for or purchase products and services at Post Offices or other retail sites. This includes products and services related to passports, Post Office boxes, caller services, and self-service equipment.
2. Senders and recipients of special mail services.
3. Authorized users of Post Office boxes and caller services.
4. Customers with inquiries or claims relating to special mail services.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Name, customer ID(s), company name, phone number, mail and e-mail address, record of payment, passport applications and a description of passport services rendered, Post Office box and caller service numbers.
2. Identity verification and biometric information: Driver's license; two forms of ID; signature; photographic image via self-service equipment; fingerprints, date of birth, and Social Security Numbers (SSNs) as required for passports by the State Department.
3. Recipient information: Name, address, and signature.
4. Names and addresses of persons authorized to access a Post Office box or caller service.
5. Claim and inquiry information: Mailer and addressee name, mail and e-mail address, and phone number; claimant SSN and signature; claim or inquiry description, number, and status.
6. Payment information: Credit and/or debit card number, type, and expiration date.
7. Product information: Article number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, 404, and 411; 22 U.S.C. 214; and 31 U.S.C. 7701.

PURPOSE(S):

1. To enable customers to apply for and purchase nonfinancial products and services at Post Offices and other retail locations.
2. To ensure accurate mail delivery.
3. To respond to inquiries and claims related to special mail services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the standard routine uses for customer-related systems, the following additional routine uses also apply with the exception noted below:

a. Disclosure of boxholder information may be made to a federal, state, or local government agency upon prior written certification that the information is required for the performance of its duties. A copy of PS Form 1093, *Application for Post Office Box or Caller Service,* may be furnished.

b. The name or address of the holder of a Post Office box may be disclosed to a person empowered to serve legal process, or the attorney for a party in whose behalf service will be made, or a party who is acting pro se, on receipt of written information that meets prescribed certification requirements. A copy of PS Form 1093 will not be furnished.

c. Disclosure of boxholder information may be made, on prior written certification from a foreign government agency citing the relevance of the information to an indication of a violation or potential violation of law and its responsibility for investigating or prosecuting such violation, and only if the address is (a) outside the United States and its territories, and (b) within the territorial boundaries of the requesting foreign government. A copy of PS Form 1093 may be furnished.

All routine uses are subject to the following exception: Information concerning an individual boxholder who has filed an appropriate protective court order with the postmaster will not be disclosed under any routine use except pursuant to the order of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By name, customer ID(s), ZIP Code, article number, claim number, Post Office box or caller service number, check number, or debit and/or credit card number.

SAFEGUARDS:

Paper records, computers, and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers are protected by a cipher lock system, card key system, or other physical access control methods. Computer systems are also protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and use identifications, and file management. Online data transmissions are protected by encryption.

Access to these records is limited to authorized personnel, who must be identified with a badge. Contractors must provide similar protection subject to contract controls and a security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

Passport applications are mailed on the day of acceptance with fees and documentation. Records related to passports are destroyed after 4 months.

Records related to Special Services for domestic and International Express Mail are retained for up to 1 year. Domestic and international Special Services records are retained for 2 years. Records relating to Post Office boxes and caller services are retained for up to 2 years after the customer relationship ends. Records collected via self-service equipment are retained for up to 2 years. Records related to credit and/or debit card transactions are retained for 2 years. Records related to inquiries and claims are retained for up to 3 years from final action on the claim. Records related to retail transactions are retained for up to 5 years.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St., Arlington, VA 22209.

Senior Vice President, Operations, United States Postal Service, 475 L'Enfant Plz. SW., Washington, DC 20260.

NOTIFICATION PROCEDURE:

For records relating to Post Office boxes, caller services, self-service, and passports, inquiries made in person must be made by the subject individual at the local Post Office. Requestors must identify themselves with a driver's license or military, government, or other form of acceptable identification. (**Note:** for passports, inquiries are best directed to the Department of State, which maintains the original case file.)

For Special Services, information can be obtained from the facility where the service was obtained, or can be accessed on *http://www.usps.com.* Inquiries should include name, date of mailing, and article number. For Special Services claims, customers can write a letter, including name, date of claim, and claim number, to the head of the facility where the claim was filed, or can call 888–601–9328.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

USPS 590.000

SYSTEM NAME:

Sales, Marketing, Events, and Publications.

SYSTEM LOCATION:

Postal Service Headquarters Marketing and Public Policy; Information Systems Service Centers (ISSC); National Customer Service Center; Area and District Postal Service facilities; Post Offices; and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who interact with Postal Service sales personnel, respond to direct marketing messages, request publications, respond to contests and surveys, and attend Postal Service events.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Customer and key contacts' names, mail and e-mail addresses, phone, fax and pager numbers; job descriptions, titles, and roles; other names and e-mails provided by customers.

2. Identifying information: Customer ID(s), D-U-N-S Numbers, Postal Service account numbers, meter numbers, and signatures.

3. Business specific information: Firm name, size, and years in business; number of employees; sales and revenue information; business sites and locations; URLs; company age; industrial classification numbers; use of Postal Service and competitors products and services; types of customers served; customer equipment and services; advertising agency and spending; names of Postal Service employees serving the firm; and calls made.

4. Information specific to companies that act as suppliers to Postal Service: Contract start and end dates, contract award number, contract value, products and/or services sold under contract.

5. Information provided by customers as part of a survey or contest.

6. Payment information: Credit and/or debit card number, type, expiration date, and check information; and Automated Clearing House (ACH) information.

7. Event information: Name of event; role at event; itinerary; and membership in a PCC.

8. Customer preferences: Preferences for badge name and accommodations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To understand the needs of customers and improve Postal Service sales and marketing efforts.

2. To provide appropriate materials and publications to customers.

3. To conduct registration for Postal Service and related events.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

For sales, events, and publications, information is retrieved by customer name or customer ID(s), mail or e-mail address, and phone number.

For direct marketing, information is retrieved by Standard Industry Code (SIC) or North American Industry Classification System (NAISC) number, and company name.

SAFEGUARDS:

For sales, events, and publications, paper records and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Computers containing information are located in controlled-access areas with personnel access controlled by a cipher lock system, card key system, or other physical access control method, as appropriate. Authorized persons must be identified by a badge. Computer systems are protected with an installed security software package, computer logon identifications, and operating system controls including access controls, terminal and user identifications, and file management. Online data transmission is protected by encryption.

For direct marketing, paper records and computer Storage tapes and disks are maintained in controlled-access areas or under general scrutiny of program/contractor personnel. Access is controlled by logon ID and password as authorized by the Marketing organization via secure Web site. Within the secured Storage facility, authorized persons must be identified by a badge. Online data transmission is protected by encryption.

Contractors must provide similar protections subject to contract controls and a security compliance review by the Postal Inspection Service.

RETENTION AND DISPOSAL:

Records relating to organizations and publication mailing lists are retained until the customer ceases to participate. ACH records are retained for up to 2 years. Records relating to direct marketing, advertising, and promotions are retained for 5 years.

Other records are retained for 3 years after the relationship ends.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N. Lynn St., Arlington VA 22209.

NOTIFICATION PROCEDURE:

For information pertaining to sales, inquiries should be addressed to: Office of Sales Performance Assessment and Administration, 1735 N. Lynn St., Arlington, VA 22209.

Customers wanting to know if other information about them is maintained in this system of records must address inquiries in writing to the Chief Marketing Officer, and include their name and address.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the NotificationProcedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers, Postal Service personnel, and list providers.

USPS 600.000

SYSTEM NAME:

International Services.

SYSTEM LOCATION:

Postal Service Headquarters, Information Systems Service Centers (ISSC), and Postal Service facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers shipping to or from international locations.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: customer name, customer ID(s), and contact information.
2. Name and address of senders and addressees.
3. Information pertaining to mailings: Contents, order number, volume, destination, weight, origin, and type of mailing.
4. Customer barcode scan data.
5. Company name; contact name, title, and phone and fax number; mail and e-mail address; after-hours contact name and phone number; Tax ID number; Permit account number; and CAPS account number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To provide international mailings and business services.
2. To provide Postal Service scan data to customers for mail tracking purposes.
3. To support customized mail agreements with international customers.
4. To satisfy reporting requirements for customs purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, ID number(s).

SAFEGUARDS:

Paper records and computer Storage tapes and disks are maintained in controlled-access areas or under general supervision of program personnel. Hardware is stored in secure cabinets and hardcopy materials are stored in locked Storage cabinets. Data is firewall protected and accessible by the customer by username and password. Postal Service access is restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records related to the Pre-Customs Advisory System are retained for 5 years and then erased, according to the requirements of domestic and foreign Customs services.

Other records are retained for 3 years after the relationship ends.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, International Business, United States Postal Service, 1735 N Lynn St, Arlington VA 22209.

NOTIFICATION PROCEDURE:

Customers wanting to know if other information about them is maintained in this system of records must address inquiries in writing to the system manager, and include their name and address.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers and Postal Service personnel.

USPS 610.000

SYSTEM NAME:

Identity and Document Verification Services.

SYSTEM LOCATION:

Postal Service Marketing, Headquarters; Information Systems Service Centers (ISSC); and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who apply for identity and document verification services.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Customer information: Name, address, customer ID(s), telephone number, mail and e-mail address, date of birth, place of birth, company name, title, role, and employment status.
2. Names and contact information of users who are authorized to have access to data.
3. Verification and payment information: Credit and/or debit card information or other account number, government issued ID type and number, verification question and answer, and payment confirmation code. (Note: Social Security Number (SSN) and credit and/or debit card information are collected, but not stored, in order to verify ID.)
4. Biometric information including fingerprint, photograph, height, weight, and iris scans. (Note: Information may be collected, secured, and returned to customer, but not stored.)
5. Digital certificate information: Customer's public key(s), certificate serial numbers, distinguished name, effective dates of authorized certificates, certificate algorithm, date of revocation or expiration of certificate, and Postal Service-authorized digital signature.
6. Transaction information: clerk signature; product use and inquiries.
7. Electronic information related to encrypted documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S):

1. To provide services related to identity and document verification services.
2. To issue and manage public key certificates and/or electronic postmarks.
3. To provide secure mailing services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The standard routine uses for customer-related systems apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases, computer Storage media, and paper.

RETRIEVABILITY:

By customer name, customer ID(s), distinguished name, certificate serial number, receipt number, and transaction date.

SAFEGUARDS:

For public keys, hardcopy records and computer records are stored in a building with access controlled by guards and room access controlled by card readers. Information in the database is protected by a security architecture of several levels that includes an asynchronous gateway, network firewall, operating security system, and database software security architecture. Internal access to the database is limited to the system administrator, database administrator, and designated support personnel. Key pairs are protected against cryptanalysis by encrypting the private key and by using a shared secret algorithm to protect the encryption key, and the certificate authority key is stored in a separate, tamperproof, hardware device. Activities are audited, and archived information is protected from corruption, deletion, and modification.

For authentication services and electronic postmark, electronic data is transmitted via secure socket layer (SSL) encryption to a secured data center. Computer media are stored within a secured, locked room within the facility. Access to the database is limited to the system administrator, database administrator, and designated support personnel. Paper forms are stored within a secured area within locked cabinets.

RETENTION AND DISPOSAL:

Records related to Pending Public Key Certificate Application Files are added as received to an electronic database, moved to the authorized certificate file when they are updated with the required data, and records not updated within 90 days from the date of receipt are destroyed.

Records related to the Public Key Certificate Directory are retained in an electronic database, are consistently updated, and records are destroyed as they are superseded or deleted.

Records related to the Authorized Public Key Certificate Master File are retained in an electronic database for the life of the authorized certificate.

When the certificate is revoked, it is moved to the certificate revocation file.

The Public Key Certificate Revocation List is cut off at the end of each calendar year and records are destroyed 30 years from the date of cutoff.

Records may be retained longer with customer consent or request.

Other records in this system are retained for 7 years.

Records are deleted or destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer and Senior Vice President, United States Postal Service, 1735 N Lynn St, Arlington VA 22209.

NOTIFICATION PROCEDURE:

For authentication services, electronic postmarks, and digital certificates, inquiries should be addressed to:

Manager, Identity and Document Verification Services, United States Postal Service, 475 L'Enfant Plz. SW., Washington DC 20260.

Customers wanting to know if other information about them is maintained in this system of records must address inquiries in writing to the system manager, and include their name and address.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Customers.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–31386 Filed 12–13–02; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 67 FR 72711, December 6, 2002.

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

ANNOUNCEMENT OF CLOSED MEETING: Additional meeting.

The Securities and Exchange Commission will hold an additional closed meeting during the week of December 9, 2002:

An additional closed meeting will be held on Thursday, December 12, 2002 at 2 p.m.

Commissioner Atkins, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting scheduled for Thursday, December 12, 2002, will be:

Formal orders of investigation;

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions;

Adjudicatory matter; and

Litigation matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: December 11, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–31635 Filed 12–11–02; 4:32 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of December 16, 2002:

An Open Meeting will be held on Wednesday, December 18, 2002, at 10 a.m., in Room 1C30, the William O. Douglas Room, and a Closed Meeting will be held on Thursday, December 19, 2002, at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

The subject matter of the Open Meeting scheduled for Wednesday, December 18, 2002 will be:

1. The Commission will consider whether to adopt exemptions for most standardized options from provisions of the Securities Act of 1933 and from the registration requirements of the Securities Exchange Act of 1934. The exemptions would ensure comparable regulatory treatment of standardized options and security futures products.

2. The Commission will consider proposing new rules and rule amendments to implement (a) the mandated electronic filing of reports required to be filed by officers, directors and principal security holders under section 16(a) of the Securities Exchange Act of 1934; and (b) Web site posting of such reports by issuers, both of which are required by section 16(a)(4) of the Exchange Act, as amended by section 403 of the Sarbanes-Oxley Act of 2002.

The subject matter of the Closed Meeting scheduled for Thursday, December 19, 2002 will be:

Formal orders of investigation;

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions; and

Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: December 11, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31657 Filed 12–12–02; 11:28 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46961; File No. SR–BSE–2002–19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Solely Listed Issue Credit

December 6, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on November 1, 2002, the Boston Stock Exchange, Inc. (''BSE'') submitted to the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the BSE. On December 3, 2002, the BSE filed Amendment No. 1 to the proposal with the Commission.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend the portion of its Floor Operations Fee Schedule that pertains to solely listed issue credit.

The text of the proposed rule change is available at the Office of the Secretary, the BSE and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the BSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from John A. Boese, Assistant Vice President, BSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 2, 2002 (''Amendment No. 1''), which replaced the original Form 19b–4 in its entirety. In Amendment No. 1, the BSE made technical corrections to Item 9 of the original Form 19b–4 and to the Transaction Fee Schedule provided in Exhibit 2.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Floor Operations Fee Schedule to increase its Solely Listed Issue credit. The BSE seeks to increase from $25 to $50 per issue the monthly credit it offers its specialists for trading those issues that are only listed on the BSE (''Solely Listed Issues''). The BSE believes that its Solely Listed Issue program is an integral part of the products and services it offers its customers and proposes this increase as a way to assist in maintaining the program.

2. Statutory Basis

The BSE believes the proposed rule change is consistent with section 6 of the Act[4] in general, and with section 6(b)(4) of the Act[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its issuers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The BSE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The BSE has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the BSE believes that the proposal establishes or changes a due, fee, or other charge, it has become effective pursuant to section 19(b)(3)(A) of the Act[6] and subparagraph (f)(2) of Rule 19b–4[7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–2002–19 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31589 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46957; File No. SR–CBOE–2002–62]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Proposing to Amend Interpretation .01(b)(2) and .05(d)(ii) to CBOE Rule 5.3 Which Establish the Pricing Criteria for Securities that Underlie Options Traded on the Exchange

December 6, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 11, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend Interpretation .01(b)(2) and .05(d)(ii) to CBOE Rule 5.3, which establish the pricing criteria for securities that underlie options traded on the Exchange. The text of the proposed rule change follows. Additions are in *italics.* Deleted text is in [brackets].

* * * * *

Chapter V—Securities Dealt In

* * * * *

Criteria for Underlying Securities

Rule 5.3

(a) Underlying securities in respect of which put or call option contracts are approved for listing and trading on the Exchange must meet the following criteria:

(1) The security must be duly registered and

(i) Listed on a national securities exchange; or

(ii) Traded through the facilities of a national securities association and reported as a ''national market system'' (''NMS'') security as set forth in Rule 11Aa3–1 under the Securities Exchange Act of 1934; and

(2) The security shall be characterized by a substantial number of outstanding shares which are widely held and actively traded.

(b) In addition, the Board of Directors shall from time to time establish guidelines to be considered by the Exchange in evaluating potential underlying securities for Exchange option transactions. There are, however, many relevant factors which must be considered in arriving at such a determination. The fact that a particular security may meet the guidelines established by the Board does not necessarily mean that it will be approved as an underlying security. Further, in exceptional circumstances an underlying security may be approved by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities.

. . . Interpretations and Policies:

.01 The Board of Directors has established guidelines to be considered by the Exchange in evaluating potential underlying securities for Exchange option transactions. Absent exceptional circumstances with respect to Paragraphs (a)(1) or (2), or (b)(1) or (2) listed below, at the time the Exchange selects an underlying security for Exchange option transactions, the following guidelines with respect to the issuer shall be met.

(a) Guidelines applicable to the issuer of the security are:

(1) There are a minimum of 7,000,000 shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Securities Exchange Act of 1934.

(2) There are a minimum of 2,000 holders of the underlying security.

(3) The issuer is in compliance with any applicable requirements of the Securities Exchange Act of 1934.

(b) Guidelines applicable to the market for the security are:

(1) Trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve months.

(2) *(A) If the underlying security is a ''covered security'' as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the market price per share of the underlying security has been at least $3.00 for the previous five consecutive business days preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation for listing and trading. For purposes of this Interpretation .01(b)(2)(A), the market price of such underlying security is measured by the closing price reported in the primary market in which the underlying security is traded.*

(B) If the underlying security is not a ''covered security'', [T]the market price per share of the underlying security has been at least $7.50 for the majority of business days during the three calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

.02–.04 No Change.

.05(a)–(c) No Change.

(d) In the case of a Restructuring transaction that satisfies either or both of the conditions of subparagraphs (a)(1) or (a)(2) above in which shares of a Restructure Security are sold in a public offering or pursuant to a rights distribution:

(i) The Exchange may assume the satisfaction of one or both of the requirements of paragraphs (a)(1) and

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(a)(2) of Interpretation and Policy .01 above on the date the Restructure Security is selected for options trading only if: (A) The applicable conditions set forth in clause (i) of paragraph (c) above are met with respect to whichever of these requirements is assumed to be satisfied, or (B) the condition set forth in clause (ii) of paragraph (c) above is met, in either case subject to the limitations stated in said paragraph (c).

(ii) The Exchange may certify that the market price of the Restructure Security satisfies the requirement of paragraph (b)(2) of Interpretation and Policy .01 above by relying on the market price history of the Original Security prior to the ex-date for the Restructuring Transaction in the manner described in paragraph (a) above, but only if the Restructure Security has traded ''regular way'' on an exchange or automatic quotation system for at least five trading days immediately preceding the date of selection, and at the close of trading on each trading day preceding the date of selection, as well as at the opening of trading on the date of selection the market price of the Restructure Security was at least $7.50*, or, if the Restructure Security is a Covered Security, as defined in paragraph (b)(2) of Interpretation and Policy .01 above, the market price of the Restructure Security was at least $3.00.*

(iii) No Change.

.06–.09 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its pricing requirement for securities that underlie options traded on the Exchange (''underlying security''). Currently, Interpretation .01(b)(2) to CBOE Rule 5.3 requires that the market price per share of any underlying security must be at least $7.50 for the majority of business days during the three calendar months preceding the date of selection of an option class, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

The Exchange now proposes to amend Interpretation .01(b)(2) to CBOE Rule 5.3 to provide that, for underlying securities that are deemed Covered Securities, as defined under section 18(b)(1)(A) of the Securities Act of 1933 (''1933 Act''),[3] the closing market price of the underlying security must be at least $3.00 per share for the five previous consecutive business days prior to the date on which CBOE submits an option class certification. For Underlying Securities that are not Covered Securities, the Exchange states that the current $7.50 price per share requirement would continue to apply.

When the $7.50 price requirement was first implemented, the listed options market was in its infancy. Now more than twenty-eight years after the CBOE first started trading listed options, the Exchange states the listed options market is a mature market with sophisticated investors. The Exchange does not believe that this particular criteria serves to accomplish its presumed intended purpose, *i.e.*, to prevent the proliferation of option classes on overlying securities that lack liquidity needed to maintain fair and orderly markets. The Exchange states that it now seeks to move away from what it believes is a paternalistic approach to listing standards and allow the desires of its customers and the workings of the marketplace to determine the securities on which the Exchange will list options.

In determining to list any number of new option classes, the Exchange must ensure that its own systems and those of the Options Price Reporting Authority (''OPRA'') have the capacity to handle the potential increased capacity requirements. Also, due to recent trends in the securities markets, there has been a marked increase in the number of underlying securities that, but for the pricing standard, would otherwise qualify for options listing on the Exchange. The Exchange states that changing the pricing standard to the proposed $3.00 market price per share requirement would allow the Exchange to evaluate whether to list options on a greater number of classes without compromising investor protection.

The Exchange does not propose to amend any of the other criteria in CBOE Rule 5.3, including the requirements that: there must be a minimum of 7,000,000 shares of the underlying security owned by public investors; there must be a minimum of 2,000 holders of the underlying security; and, that there must be a trading volume of at least 2,400,000 shares in the preceding twelve months. Additionally, by requiring the Underlying Security to be listed on the New York Stock Exchange, Inc., American Stock Exchange LLC (''Amex''), or Nasdaq National Market System (''Nasdaq''),[4] the Exchange states that this would ensure that the underlying security meets the highest listing standards in the securities industry. However, if the underlying security does not qualify as a Covered Security, the $7.50 market price per share standard still will apply.

The Exchange believes that the proposed $3.00 market price per share standard is also consistent with the guideline price in CBOE's Delisting Criteria Rule,[5] which is used to determine whether an underlying security previously approved for Exchange options transactions no longer meets the requirements for the continuance of approval. Interpretations and Policies .01(d) and .02 to CBOE Rule 5.4 sets a $3 market price per share as the threshold for determining whether the Exchange may continue listing and trading options on an underlying security that was previously approved for options trading under CBOE Rule 5.3. As long as a $3.00 standard is recognized as an acceptable pricing standard for options trading, albeit as a standard for continued listing, the Exchange believes that the proposed $3.00 should be the threshold standard for initial listing standards as well.

The Exchange also proposes, as a safeguard against price manipulation, that the underlying security have a closing market price of at least $3.00 per share for the previous five consecutive business days preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation for listing and trading. The market price of such underlying security

[3] Section 18(b)(1)(A) of the 1933 Act provides that, ''[a] security is a covered security if such security is—listed, or authorized for listing, on the New York Stock Exchange or the American Stock Exchange, or listed, or authorized for listing, on the National Market System of the Nasdaq Stock Market (or any successor to such entities) * * *'' 15 U.S.C. 77r(b)(1)(A). The term Covered Security, for the operation of proposed amendments to Interpretation .01(b)(2) to CBOE Rule 5.3 herein, would not include those securities defined under section 18(b)(1)(B) of the 1933 Act. 15 U.S.C. 77r(b)(1)(B).

[4] *See* 15 U.S.C. 77r(b)(1)(A).

[5] *See* Interpretation .01 to CBOE Rule 5.4.

would be measured by the closing price reported in the primary market in which the underlying security is traded. The Exchange believes that a ''look back'' period of five consecutive days would provide a sufficient measure of protection from any attempts to manipulate the market price of the underlying security.

The Exchange also believes that the proposed rule change would encourage the delisting of inactive option classes, particularly those classes in which the market price of the underlying security is below $7.50. Currently, a Designated Primary Market Maker (''DPM'') on the Exchange to whom an option class has been allocated may be reluctant to delist an inactive option class if the market price of the underlying security is below $7.50 because once delisted, the Exchange's current initial listing criteria must be met to re-list the option class, including the requirement that the market price per share of the underlying security be at least $7.50 for the majority of business days during the preceding three months. The Exchange also notes that the Commission recently granted CBOE approval to list additional series on an option class even though the market price of the underlying security is below $3, provided that at least one other options exchange trades the series to be added, and at the time the other options exchange added that series, it met the requirements to add new series, including the $3 price requirement.[6]

The proposed $3 price standard and the five-day look-back period would provide a reliable test for stability and, at the same time, presents a more reasonable time period for qualifying the price of an underlying security. The Exchange further believes that this proposed abbreviated qualification period, in combination with CBOE's existing quarterly delisting program,[7] would contribute to reducing unnecessary quote traffic.

Finally, for the purposes of consistency within CBOE Rules, the Exchange proposes to amend Interpretation and Policy .05(d)(ii) to CBOE Rule 5.3. Currently, Interpretation .05(d)(ii) to CBOE Rule 5.3 provides a method to certify that the market price of a Restructure Security satisfies the pricing requirement of Interpretation and Policy .01(b)(2) to CBOE Rule 5.3 and specifically references the $7.50 market price per share. In order to make Interpretation .05(d)(ii) to CBOE Rule 5.3 consistent with the pricing standard change to Interpretation .01(b)(2) to CBOE Rule 5.3, the amended rule would reflect that the market price standard for Restructure Securities also shall be reduced from $7.50 to $3.00 as long as the Restructure Security is a Covered Security.

2. Statutory Basis

The Exchange believes that the current proposal will allow the Exchange to provide investors with those options that are most useful and demanded by them without sacrificing any investor protection. As such, the Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[8] in general and furthers the objectives of section 6(b)(5)[9] in particular in that it will promote just and equitable principles of trade; facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system; and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2002–62 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31550 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46971; File No. SR–CBOE–2002–67]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Amending the Margin Rule 12.3 to Incorporate Security Futures

December 9, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 1, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On November 21, 2002, the CBOE filed an

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[6] *See* Securities Exchange Act Release No. 46501 (September 16, 2002), 67 FR 59585 (September 23, 2002) (SR–CBOE–2002–52). The Exchange represents that these rules are consistent with similar rules regarding listing and maintenance standards of the Amex, International Securities Exchange, Inc., Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

[7] CBOE states that it maintains an active delisting program which requires the quarterly delisting of multiply listed option classes that do not trade more than 20 contracts per day on the Exchange.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

amendment to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its margin rules under CBOE Rule 12.3 to incorporate security futures. Below is the text of the proposed rule change, as amended. Proposed new language is italicized; proposed deletions are bracketed.

* * * * *

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Chapter XII

Margins

Rule 12.1 No change

Rule 12.2 Time Margin Must Be Obtained

(a) Securities Other Than Security Futures Contracts. The amount of initial margin, or payment in respect of cash account transactions, required by this Rule shall be obtained as promptly as possible and in any event within one payment period as defined in Section 220.2 of Regulation T of the Board of Governors of the Federal Reserve System. The amount of maintenance margin required by this Rule shall be obtained as promptly as possible and in any event within 15 *business* days.

Rule 12.3 Margin Requirements

(a) No change

(b) Customer Margin Accounts—General Rule. Subject to the exceptions set forth in part*s* (c) *and (k)* hereof, the minimum amount of margin which must be maintained in margin accounts of customers having positions in securities shall be as follows:

(1) No change

(2) No change

(c)–(e) No Change

(f) Market maker and specialist accounts.

(1) *Definitions.* For purposes of this section (f), the following terms shall have the meanings specified below.

(A) The term ''related instrument'' within an option class or product group means any related derivative product*, including security futures contracts,* that meets the offset level requirements for product groups under Rule 15c3–1 of the Exchange Act, or any applicable SEC staff interpretations or no-action positions (hereinafter referred to as SEC Rule 15c3–1).

(B) The term ''product group'' means two or more option classes, related instruments, and qualified stock baskets for which it has been determined that a percentage of offsetting profits may be applied to losses in the determination of net capital as set forth in SEC Rule 15c3–1.

(C) The term ''option class'' refers to all option contracts covering the same underlying instrument.

(D) The term ''underlying instrument'' refers to long and short positions covering the same security, or a security which is exchangeable for or convertible into the underlying security within a period of 90 days. The term underlying instrument shall not be deemed to include securities options, futures contracts, options on futures contracts, *security futures contracts,* qualified stock baskets, or unlisted instruments.

(E) The term ''qualified stock basket'' shall have the meaning as defined in SEC Rule 15c3–1.

(F) The term ''net liquidating equity'' shall mean the sum of positive cash balances and long securities positions less negative cash balances and short securities positions held in the accounts.

(2) The following positions of members may be carried upon a margin basis that is satisfactory to the member and the carrying broker or dealer:

(A) positions in which the member makes a market and permitted offset transactions as defined below[.] *and*

(B) positions in security futures contracts that qualify for exclusion from the margin requirements of SEC and Commodity Futures Trading Commission (''CFTC'') regulations pursuant to SEC Rule 400(c)(2)(v) under the Exchange Act and CFTC Rule 41.42(c)(2)(v), and any permitted offset transactions designated by the exchange or association upon which the member trades the security futures contract.

Notwithstanding the other provisions of this paragraph (f), a member organization may clear and carry the market-maker permitted offset positions of one or more registered specialists, registered market-makers, or Designated Primary Market-Makers pursuant to the rules of a national securities exchange (all of which are deemed specialists for all purposes under the [Securities] Exchange Act [of 1934]) (hereinafter referred to as ''market-maker(s)'') upon a margin basis satisfactory to the concerned parties. The amount of any deficiency between the equity maintained by the market-maker and the haircuts specified in SEC Rule 15c3–1 shall be considered as a deduction from net worth in the net capital computation of the carrying broker or dealer.

(3) *Permitted Offset Transactions.*

(A) For purposes of this subparagraph (f)(3), a permitted offset position means, in the case of an option in which a market-maker makes a market, a position in the underlying instrument or other related instrument, and in the case of other securities in which a market-maker makes a market, a position in options overlying the securities in which a market-maker makes a market, if the account holds the following permitted offset positions:

(i) A long position in the underlying instrument or *security futures contract* offset by a short option position which is ''in or at the money'';

(ii) A short position in the underlying instrument or *security futures contracts* offset by a long option position which is ''in or at the money'';

(iii) A stock position resulting from the assignment of a market-maker short option position *or delivery in respect of a short security futures contract;*

(iv) A stock position resulting from the exercise of a market-maker long option position *or taking delivery in respect of a long security futures contract;*

(v) A net long position in a security (other than an option) in which a market-maker makes a market;

(vi) A net short position in a security (other than an option) in which the market-maker makes a market; or

(vii) An offset position as defined in SEC Rule 15c3–1, including its appendices, or any applicable SEC staff interpretation or no-action position

Permitted offset transactions must be effected for market-making purposes such as hedging, risk reduction, rebalancing of positions, liquidation, or accommodation of customer orders, or other similar market-maker purpose.

For purposes of this subparagraph (f)(3), the term ''in- or at-the-money'' means the current market price of the underlying security is not more than two standard exercise intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option; the term ''in the money'' means the current market price of the underlying instrument or index is not below (with respect to a call option) or above (with respect to a put option) the exercise price of the option; and, the term ''overlying option'' means

[3] *See* letter from Madge M. Hamilton, Senior Attorney, CBOE, to Theodore R. Lazo, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, dated November 20, 2002 (''Amendment No. 1''). Amendment No. 1 makes technical changes to the proposed rule text.

a put option purchased or a call option written against a long position in an underlying instrument, or a call option purchased or a put option written against a short position in an underlying instrument.

(B) Reserved

(C)(1) Reserved

(2) For any member which acts as a Market-Maker on the Exchange, the carrying member organization may combine all Market-Maker accounts in which the Market-Maker or its nominee(s) participates, with the exception of joint accounts in which the Market-Maker or its nominee are not the sole participants, for purpose of computing its requirements as prescribed by SEC Rule 15c3–1.

(3) On any business day on which positive net liquidating equity is not maintained in the account(s), the carrying member organization must make a call to the member for additional equity at least equal to the deficit and must notify the Exchange's Department of Financial Compliance of the deficit. The carrying member organization may extend no further credit in the account(s) until the account(s) maintains a positive net liquidating equity and, if the member organization's call for additional equity is not met, steps should be taken promptly to liquidate the positions in the account(s). If the deficit is not resolved by noon of the following business day the carrying member organization must send telegraphic notice to the Exchange as well as the regional and national offices of the Securities and Exchange Commission. However, nothing in this subparagraph (C) shall prohibit the carrying firm from effecting hedging transactions in the deficit account with the prior written approval of the carrying firm's SEC designated examining authority.

(4) In the case of a joint account carried by a member organization for a Market-Maker or specialist in which the Member Organization participates, the margin deposited by the other participants may be in any amount which is mutually satisfactory.

(g)(i) Broker-Dealer Account. A member organization may carry the proprietary account of another broker-dealer, which is registered with the SEC, upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T of the Board of Governors of the Federal Reserve System *and, in respect of security futures contracts, SEC Rules 400 through 406 under the Exchange Act and CFTC Rules 41.42 through 41.48* are adhered to and the account is not carried in a deficit equity condition. The amount of any deficiency between the equity maintained in the account and the margin required by the other provisions of this Rule shall be deducted in computing the Net Capital of the member organization under Rule 15c3–1 of the Exchange Act.

(ii) Requirements for Joint Back Office Participants. A member organization may carry the accounts of joint back office (''JBO'') participants upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T Section 220.7 and CBOE Rule 13.4 are adhered to and the account has a minimum equity of not less than $1,000,000. If equity is below $1,000,000 the carrying organization must issue a call for additional funds or securities which shall be obtained within five business days.

(h) Notwithstanding any provisions of paragraphs (b) through (g) *and (k)* hereof, the Exchange may at any time impose higher margin requirements in respect of positions in any security (including any series of options dealt in on an exchange) when it deems such higher margin requirements to be advisable in light of the price of the security or in light of existing market conditions pertaining generally or with respect to such security.

(i) For the purpose of effecting new securities transactions and commitments, the customer shall be required to deposit margin or have equity in cash and/or securities in the account which shall be at least the greater of:

(1) The amount specified in Regulation T of the Board of Governors of the Federal Reserve System[,] *and, in respect of security futures contracts, SEC Rules 400 through 406 under the Exchange Act and CFTC Rules 41.42 through 41.48,* or

(2) The amount specified in paragraphs (b), [and] (c) *and (k)* of this Rule, or

(3) Such greater amount as the Exchange may from time to time require for specific securities, or

(4) Equity of at least $2,000 except that cash need not be deposited in excess of the cost of any security purchased (this equity and cost of purchase provision shall not apply to ''when distributed'' securities in a cash account).

Withdrawals of cash or securities may be made from any account which has a debit balance, ''short'' position or commitments, provided the account is in compliance with Regulation T of the Board of Governors of the Federal Reserve System *and the security futures contract margin requirements pursuant to SEC Rules 400 through 406 under the Exchange Act and CFTC Rules 41.42 through 41.48,* and after such withdrawal the equity in the account is at least the greater of $2,000 or an amount sufficient to meet the maintenance margin requirements of this Rule.

(j) Reserved

(k) Security Futures Contracts. Nothing in this paragraph (k) or other rules of this Chapter XII shall be applicable to security futures contract transactions and positions in a futures account.

(1) General Rule. In relation to security futures contracts, no member organization may effect a transaction or carry an account for a customer, whether a member or nonmember of the Exchange, without proper and adequate margin in accordance with this Chapter XII, all other applicable rules of the Exchange, SEC Rules 400 through 406 under the Exchange Act and CFTC Rules 41.42 through 41.48. No transaction in a security futures contract may be effected, nor may a position in a security futures contract be carried, in a securities cash account.

(2) Time Allowed for Obtaining Margin. If initial or maintenance margin owed is not obtained prior to the day on which the account is deemed undermargined for purposes of SEC Rule 15c3–1(c)(2)(xii), member organizations must comply with the provisions of paragraph (k)(3) below. Extensions of time shall be unavailable.

(3) Net Capital. In computing its net capital, a member organization shall deduct any initial or maintenance margin deficiency attributable to security futures contracts in accordance with the undermargined account provision of SEC Rule 15c3–1(c)(2)(xii).

(4) Day Trading. Day trading rules shall not be applicable to security futures contracts.

(5) Definitions. For the purposes of this paragraph (k), the following terms shall have the meanings specified below.

(A) The term ''security futures contract'' means a ''security future'' as defined in Section 3(a)(55) of Exchange Act.

(B) The term ''current market value'', with respect to security futures contracts, means ''current market value'' as defined in SEC Rule 401(4)(i)(A) or (4)(i)(B), whichever is applicable, under the Exchange Act and CFTC Rule 41.43(4)(i)(A) or (4)(i)(B), whichever is applicable.

(C) The term ''underlying security'' means, in the case of physically settled security futures contracts, the security that is delivered upon expiration of the

contract, and, in the case of cash settled security futures contracts, the security or securities index the price or level of which determines the final settlement price for the security futures contract upon its expiration. The term "underlying security" also means, in the case of a securities index, an underlying stock basket, or equivalent units of a registered investment company meeting the criteria set forth in CBOE Rule 5.3 and the Interpretations and Policies there under.

(D) The term "underlying basket" means, in the case of a securities index, a group of securities futures contracts where the underlying securities as defined in paragraph (C) above include each of the component securities of the applicable index and which meets the following conditions (i) the quantity of each underlying security is proportional to its representation in the index, (ii) the total market value of the underlying securities is equal to the aggregate value of the applicable index, (iii) the basket cannot be used to offset more than the number of contracts or warrants represented by its total market value, and (iv) the security futures contracts shall be unavailable to support any other contract or warrant transaction in the account.

(6) Exceptions. For the offsetting positions specified in the table below, member organizations may apply the corresponding initial and maintenance margin requirement minimums, notwithstanding the margin required on a security futures contract pursuant to paragraph (k)(1) above, or on other securities pursuant to paragraphs (b) and (c) of this Rule.

All options referred to mean options on the underlying security, not the security futures contract.

All requirements that are expressed in terms of an option's exercise price, in-the-money amount, and out-of-the-money amount mean the aggregate amount (i.e., multiply by number of shares per contract or the contract multiplier).

	Security futures contract type	Margin account initial requirement	Margin account maintenance requirement
Long and Short Security Futures Contract. same underlying different expiration months same or different market(s)	Single Stock, Narrow-Based Index.	5% of the current market value of the long or short security futures contract, whichever is greater.	Same as initial.
	Single Stocks vs. Narrow-Based Index 1.	5% of the current market value of the long or short security futures contract(s), whichever is greater.	Same as initial.
Long and Short Security Futures Contract. same underlying same expiration month different markets 2	Single Stock Narrow-Based Index	3% of the current market value of the long or short security futures contract, whichever is greater.	Same as initial.
Long Security Futures Contract and Short Underlying. same underlying	Single Stock	None required on long security futures contract. Short sale proceeds plus 50% requirement on short stock position.	None required on long security futures contract. Short stock requirement is 105% of stock market value.
	Narrow-Based Index	None required on long security futures contract. Short sale proceeds plus 50% requirement on short stock basket.3.	None required on long security futures contract. Short stock basket requirement is 105% of basket market value.
Long Security Futures Contract and Short Call. same underlying	Single Stock, Narrow-Based Index.	20% of the current market value of the long security futures contract plus any call in-the-money amount. None required on short call. Proceeds from the call sale may be applied.	20% of the current market value of the long security futures contract plus any call in-the money amount.
	Single Stocks 4 vs. Narrow-Based Index Call Option. Narrow-Based Indices 4 vs. Broad-Based Index Call Option.	20% of the current market value of the long basket of security futures contracts plus any call in-the-money amount. None required on short index call. Proceeds from the call sale may be applied.	20% of the current market value of the long basket of security futures contracts plus any call in-the-money amount.
Long Security Futures Contract and Long Put. same underlying	Single Stock, Narrow-Based index.	20% of the current market value of the long security futures contract Pay for long put in full.	10% of the put exercise price plus any put out-of-the-money amount or 20% of the current market value of the long security futures contract, whichever is lower.
	Single Stocks 4 vs. Narrow-Based Index Call Option. Narrow-Based Indices 4 vs. Broad-Based Index Put Option.	20% of the current market value of the long basket of security futures contracts. Pay for long index put in full.	10% of the index put exercise price plus any put out-of-the-money amount or 20% of the current market value of the long basket of security futures contracts, whichever is lower.
Short Security Futures Contract and Long Underlying. same underlying	Single Stock	None required on the short security futures contract. 50% requirement on long stock position.	5% of the current market value of the long stock position.

	Security futures contract type	Margin account initial requirement	Margin account maintenance requirement
	Narrow-Based Index	*None required on the short narrow-based security futures contract. 50% requirement on long stock basket.4.*	*5% of the current market value of the long stock basket 4*
Short Security Futures Contract and Long Marginable Convertible 5. same underlying	*Single Stock*	*None required on the short security futures contract. 50% requirement on long convertible security.*	10% of the current market value of the long convertible security.
Short Security Futures Contract and Long Call 6. same underlying	*Single Stock*	*20% of the current market value of the short security futures contract. Pay for long call in full.*	*10% of the call exercise price plus any call out-of-the-money amount or 20% of the current market value of the short security futures contract, whichever is lower.*
	Single Stocks 4 vs. Narrow-Based Index Call Option. Narrow-Based Indices 4 vs. Broad-Based Index Call Option.	*20% of the current market value of the short basket of security futures contracts. Pay for long index call in full.*	*10% of the index call exercise price plus any call out-of-the-money amount or 20% of the current market value of the short basket of security futures contracts, whichever is lower.*
Short Security Futures Contract and Short Put. same underlying	*Single Stock*	*20% of the current market value of the short security futures contract plus any put in-the-money amount. None required on short put. Proceeds from the put sale may be applied.*	*20% of the current market value of the short security futures contract plus any put in-the-money amount.*
	Single Stocks 4 vs. Narrow-Based Index Put Option. Narrow-Based Indices 4 vs. Broad-Based Index Put Option.	*20% of the current market value of the short basket of security futures contracts plus any put in-the-money amount. None required on short index put. Proceeds from the index put sale may be applied.*	*20% of the current market value of the short basket of security futures contracts plus any put in-the-money amount.*
Long Security Futures Contract, Short Call and Long Put. same underlying put and call must have same exercise price	*Single Stock Narrow Based Index. Single Stocks 4 vs. Narrow-Based Index Options. Narrow-Based Indices 4 vs. Broad-Based Index Options.*	*20% of the current market value of the long security futures contract(s) plus any call in-the-money amount. Pay for long put in full. None required on short call. Proceeds from call sale may be applied.*	*10% of the exercise price plus any call in-the-money amount.*
Long Security Futures Contract, Short Call and Long Put. same underlying put exercise price must be below call exercise price	*Single Stock Narrow Based Index. Single Stocks 4 vs. Narrow-Based Index Options. Narrow-Based Indices 4 vs. Broad-Based Index Options.*	*20% of the current market value of the long security futures contract(s) plus any call in-the-money amount. Pay for long put in full. None required on short call. Proceeds from call sale may be applied.*	*10% of the put exercise price plus any put out-of-the-money amount, or 20% of the call exercise price plus any call in-the-money amount, whichever is lower.*
Short Security Futures Contract, Long Call and Short Put. same underlying put and call must have same exercise price	*Single Stock Narrow Based Index. Single Stocks 4 vs. Narrow-Based Index Options. Narrow-Based Indices 4 vs. Broad-Based Index Options.*	*20% of the current market value of the short security futures contract(s) plus any call in-the-money amount. Pay for long put in full. None required on short put. Proceeds from put sale may be applied.*	*10% of the exercise price plus any put in-the-money amount.*

1 A long (short) basket of security futures contracts on individual equities offset with a short (long) security futures contract on a narrow-based index. A basket of security futures contracts must qualify as an ''underlying basket'' in accordance with CBOE Rule 12.3(k)(5)(D).

2 Contract specifications must be substantively identical.

3 The stock basket must qualify as an ''underlying stock basket'' in accordance with CBOE Rule 12.3(a)(7).

4 A basket of security futures contracts must qualify as an ''underlying basket'' in accordance with CBOE Rule 12.3(k)(5)(D).

5 The convertible security must be immediately exchangeable for or convertible into, without restriction (including the payment of money), the security underlying the single stock future.

6 A long warrant (issued by the issuer of the underlying security) is also permitted (single stock futures only). The long warrant must be paid for in full and shall have no value for margin purposes.

* * * Interpretations and Policies:

.01–.15 No change

Rule 12.4 No change

Rule 12.5. Determination of Value for Margin Purposes

Positions in active securities, *except security futures contracts,* dealt in on a recognized exchange (including option contracts) shall, for margin purposes, be valued at current market value prices; provided that, whether or not dealt in on an exchange, only those options contracts on a stock or stock index, or a stock index warrant, having an expiration that exceeds 9 months and which are listed or guaranteed by the carrying broker-dealer, may be deemed to have market value for the purposes of Rule 12.3(c). *Security futures contracts shall have no value for margin purposes.* Positions in other securities shall be valued conservatively in the light of current market prices and the amount of anticipated realization upon a liquidation of the entire position. Substantial additional margin must be required in all cases where the securities carried are subject to unusually rapid or violent changes in value, or where the amount carried is such that they cannot be liquidated promptly.

12.6 No change

12.7 No change

12.8 No change

Rule 12.9. Meeting Margin Calls by Liquidation Prohibited

No Member Organization shall permit a customer to make a practice of effecting transactions requiring initial or additional margin or full cash payment and then furnishing such margin or making such full cash payment by liquidation of the same or other commitments. The provisions of this Rule shall not apply to *margin calls attributable to security futures contract transactions nor to* any account maintained for another broker or dealer, exclusive of the partners, officers and directors of such other broker or dealer, provided such other broker or dealer is a Member Organization of the Exchange or has agreed in good faith with the Member Organization carrying the account that he will maintain a record equivalent to that referred to in Rule 12.12 of these Rules.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is proposing to amend its margin rules, in a manner consistent with the joint margin regulations of the Commission and the Commodity Futures Trading Commission (''CFTC'')[4] to incorporate security futures. Specifically, CBOE is proposing to add a new provision (k) to CBOE Rule 12.3 to address margin for security futures contracts. The proposed amendments would: (1) Require the initial and maintenance margin for security futures contracts to be 20 percent unless an offset provision provides for a different margin requirement or the positions are excluded from CBOE Rule 12.3(k); (2) allow for good faith margin of certain positions in security futures contracts; (3) clarify that security futures contracts have no value for margin purposes; (4) make necessary conforming changes to other CBOE margin provisions; and (5) make some non-substantive changes to CBOE margin rules for consistency purposes.

The passage of the Commodity Futures Modernization Act of 2000 (the ''CFMA'') [5] in December of 2000 enabled futures contracts on individual stocks and narrow-based indexes to be traded in the United States for the first time. The CFMA conferred upon the Board of Governors of the Federal Reserve System (the ''FRB'') authority to set margin requirements for security futures contracts. The FRB delegated this authority to the SEC and the CFTC jointly, as permitted by the CFMA. The SEC and the CFTC have jointly issued rules and regulations.[6]

CBOE's proposed margin requirements for security futures contracts would adopt the provisions of the joint regulations of the SEC and CFTC (''Joint Regulations'').[7] Proposed new provision (k) to CBOE Rule 12.3 would require compliance with the security futures contract margin requirements of the SEC and CFTC, in addition to the Exchange margin rules and Regulation T of the FRB. Therefore, under proposed CBOE Rule 12.3(k)(1), the initial and maintenance margin requirement for a security futures contract would be 20 percent of the current market value of the contract unless an offset provision enumerated in 12.3(k) or another rule provided for a different margin requirement.

The current market value of the contract would be calculated on a mark-to-market basis at the conclusion of each trading day. Based on the mark-to-market value of a security futures contract, a variation settlement amount could be debited from or credited to a customer's account balance at the conclusion of the trading day. These variation settlement entries represent actual cash withdrawals from, or deposits to, the account that will change its cash balance in the same way as would any other routine cash withdrawal or deposit. When account equity is computed, variation settlement amounts are automatically accounted for in that they can be viewed as integrated into the cash balance, which is a component of the formula for computing equity. Proposed CBOE Rule 12.3(k)(2) would set a time limit for obtaining required margin by incorporating by reference under CBOE Rule 12.3(k)(3) the same time frame that the SEC's Net Capital Rule [8] permits maintenance margin calls to remain unsatisfied before the member organization must deduct the maintenance margin deficiency in computing its net capital. In other words, under the SEC's rules, if a customer did not satisfy an initial or maintenance margin call on a security futures contract for five days, the broker or dealer carrying that customer's security futures positions would be required to take a deduction for the undermargined customer account when computing its own net capital.

CBOE Rule 12.3(k)(4) would expressly state that day trading rules do not apply to security futures contracts. CBOE believes that a level playing field should be maintained between the securities and futures industries. Securities accounts would be at a competitive disadvantage to futures accounts if CBOE, or any other securities self-regulatory organization, were to impose day trading (*i.e.*, intra-day) margin requirements on security futures contract transactions in securities accounts, because futures accounts are not subject to day trading margin requirements. Moreover, the Joint Regulations do not implement a day trading (*i.e.*, intra-day) margin requirement.

Consistent with the Joint Regulations, the Exchange is proposing lower margin requirements for a security futures contract held in conjunction with an offsetting position in another security

[4] *See* Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002).

[5] Appendix E of the Pub. L. 106–554, 114 Stat. 2763 (2000).

[6] *See* note 4, *supra*.

[7] 17 CFR 242.400 through 242.406 and 17 CFR 41.42 through 41.49.

[8] 17 CFR 240.15c3–1(c)(2)(xii).

futures contract, an underlying security, or an option on an underlying security. Such lower margin requirements are appropriate for these offsetting positions since the risk of the combined positions is lower than the risk of the positions viewed separately.[9] Therefore, the Exchange proposes to incorporate all of the offsets identified in the Supplementary Information section of the **Federal Register** release announcing the final Joint Regulations, except for the offset involving a broad-based index future (No. 17), as a broad-based index future cannot be carried in a securities account.[10] Under the enumerated offsets, a person could have a margin requirement for a position in security futures contracts that was lower than 20 percent. For example, a person holding a long and a short securities futures contract in the same underlying security, but having different expiration months, would have a margin requirement of five percent of the current market value of the long or short contract, whichever is greater. Under another offset provision, a person holding long and short security futures contracts in the same underlying security, with the same expiration month, but listed and traded on different markets, would have a three percent margin requirement. The offsets would be listed in table format under proposed CBOE Rule 12.3(k)(6).

A number of offsets involve a basket of security futures contracts. For example, a basket of security futures contracts on individuals stocks may serve as an offset to a security futures contract on a narrow-based index or option on a narrow-based index. Also, a basket of narrow-based security futures contracts may serve as an offset to an option on a broad-based index. A definition of ''underlying basket'' as pertains to security futures contracts is proposed.[11] The primary purpose of the definition of ''underlying basket'' is to require that the composition of the basket match the composition of the index being offset.

The Exchange proposes to amend CBOE Rule 12.3(f) (Market-Maker and Specialist Accounts) to permit options market-makers to receive good faith margin treatment for hedging transactions in security futures contracts that are based on the same underlying security as the options in which they make markets. In addition, security futures contracts that qualify for the exclusion from margin under the Joint Regulations [12] would be subject to margin that is satisfactory to the member and the carrying broker or dealer.

CBOE proposes other amendments to the margin rules. Proposed changes to CBOE Rule 12.5 would clarify that security futures contracts have no value for margin purposes. Proposed amendments to CBOE Rule 12.2, Time Margin Must Be Obtained, and CBOE Rule 12.9, Meeting Margin Calls by Liquidation Prohibited, would clarify that these rules do not apply to security futures contracts. The proposed rule change also makes necessary conforming changes to other margin provisions,[13] and other non-substantive changes being proposed for consistency purposes.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Exchange Act [14] in general and furthers the objectives of section 6(b)(5) of the Exchange Act [15] in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. CBOE notes that the proposed rules are intended to implement the margin requirements for security futures contracts in the Joint Regulations. CBOE believes that the proposed rule change would remove impediments to trading security future contracts and promote just and equitable principles of trade by incorporating security futures and appropriate offsets into CBOE's margin rules in a manner that will promote competition and permit people to utilize security futures contracts for hedging purposes. As such, the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the File No. SR–CBOE–2002–67 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31590 Filed 12–13–02; 8:45 am]

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[9] In some cases only lower maintenance margin levels are proposed.

[10] *See* note 4, *supra.*

[11] *See* proposed CBOE Rule 12.3(k)(5)(D).

[12] SEC Rule 400(c)(2)(v); CFTC Rule 41.42(c)(2)(v).

[13] *See* Proposed CBOE Rules 12.3(b), (f)(1)(A) and (D), (2)(A), (3)(A)(i), (A)(ii), (A)(iii) and (A)(iv), (g)(i), (h), and (i)(2).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46956; File No. SR–DTC–2002–15]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Accelerated Approval of a Proposed Rule Change To Eliminate the FAST Certificates-on-Demand Service

December 6, 2002.

I. Introduction

On September 4, 2002, The Depository Trust Company filed with the Securities and Exchange Commission (''Commission'') a proposed rule change File No. SR–DTC–2002–15 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on November 12, 2002.[2] No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

II. Description

Currently, DTC's FAST COD service allows participants to request for same day availability a physical certificate in the participant's or its nominee's name for issues which are held in DTC's nominee name, Cede & Co., at the transfer agent under DTC's FAST program. After consultation with the largest users of the service, DTC has decided to eliminate the FAST COD service due to decreasing demand for the service. Currently, there is an average of approximately five FAST COD requests per day. In the place of FAST COD, participants may continue to use the Rush Withdrawals-by-Transfer (''RWT'') service [3] or the Deposit/Withdrawal at Custodian (''DWAC'') service.[4] RWT allows participants to quickly obtain physical certificates, which can be registered in either the participant's name or its customer's name. Using DWAC, participants can request certificates in client name directly from the transfer agents.

III. Discussion

Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.[5] By eliminating a duplicative and infrequently used service such as FAST COD, the rule change allows DTC to better allocate the resources used on FAST COD toward other needed programs or improvements. An improved distribution of resources should assist DTC in removing impediments to and perfecting the national system for the prompt and accurate clearance and settlement of securities transactions. Furthermore, DTC has other services, RWT and DWAC, that it participants can use in place of FAST COD. Accordingly, the Commission believes the proposed rule change is consistent with the Act and specifically with Section 17A(b)(3)(f) of the Act.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication because this will allow DTC to eliminate the FAST COD service and reallocate those resources to other projects scheduled for completion by the end of the year.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2002–15) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–31554 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 46772, (November 5, 2002, 67 FR 68709, 2002).

[3] For more information about the RWT service, see Securities Exchange Act Release Nos. 30505 (March 20, 1992) [SR–DTC–91–23](order approving implementation of the RWT service on permanent basis); 27518 (December 7, 1989)(order granting temporary extension of the RWT service); 26960 (June 23, 1989) [SR–DTC–89–11] (order granting approval of the RWT service procedures); 27052 (July 21, 1989) [SR–DTC–89–1] (order granting temporary approval of the RWT service).

[4] For more information about the DWAC service, see Securities Exchange Release No. 30283 (January 23, 1992) [SR–DTC–91–16] (order granting approval of the DWAC service).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46959; File No. SR–ISE–2002–27]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange, Inc., Relating to the Repeal of Limitations on Orders

December 6, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 21, 2002, the International Securities Exchange, Inc. (''ISE'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to repeal the provision in Rule 717 that prohibits Electronic Access Members (''EAMs'') from sending in more than one order every 15 seconds for the same beneficial owner in options on the same underlying security. Below is the text of the proposed rule change. Proposed deletions are in [brackets].

* * * * *

Rule 717. Limitations on Orders

* * * * *

[(h) Multiple Orders for the Same Beneficial Account.

Members shall not cause the entry of more than one order every fifteen (15) seconds for the account of the same beneficial owner in options on the same underlying security; provided, however that this shall not apply to multiple orders in different series of options on the same underlying security if such orders are part of a spread.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the rule filing is to repeal the ISE's ''15-second speed bump.'' This rule prohibits EAMs from sending in more than one order every 15 seconds for the same beneficial owner in options on the same underlying security. The ISE adopted this speed bump in 2000 to protect ISE market makers from exposure across multiple series of options if they receive orders in many series at the same time.[3] However, since adopting this rule, more sophisticated risk management tools have been developed, permitting market makers to limit risk on a market-wide basis. Accordingly, this rule is no longer necessary. Also, eliminating this restriction on trading will provide EAMs and their customers with enhanced access to the ISE.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[4] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[3] *See* Securities Exchange Act Release No. 44017 (February 28, 2001), 66 FR 13820 (March 7, 2001).

[4] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–2002–27 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31552 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46976; File No. SR–ISE–2002–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Payment-for-Order-Flow and Marketing Fees

December 9, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 20, 2002, the International Securities Exchange, Inc. (''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which the ISE has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing: (1) To reduce its payment-for-order-flow fee from $.65 a contract to $.55 a contract; (2) to lower the cap on each payment-for-order-flow fund from $650,000 to $550,000; and (3) to extend the waiver of the marketing fee from December 31, 2002 to June 30, 2003. The text of the proposed rule change is available at the ISE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it had received. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of those statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The ISE operates a payment for order flow program as approved by the Commission.[3] This program is currently

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43833 (January 10, 2001), 66 FR 7822 (January 25, 2001).

funded through a $.65 fee paid by ISE market makers for each customer contract they execute. The ISE is proposing to reduce its payment-for-order-flow fee from $.65 a contract to $.55 a contract. The ISE also has established a ceiling of $650,000 in each of the 10 payment-for-order-flow funds it maintains.[4] The ISE is proposing to lower the cap on each payment-for-order-flow fund from $650,000 to $550,000.

The ISE has also established a $.10 marketing fee, paid by market makers on customer contracts, that funds general ISE marketing efforts to increase order flow from Electronic Access members.[5] The ISE has waived that fee for the second half of this year.[6] The ISE is proposing to extend the waiver of the marketing fee from December 31, 2002 to June 30, 2003.

The ISE states that it regularly monitors the levels of these fees and ceilings to help ensure that the payment-for-order-flow and marketing efforts are sufficiently funded and that the fees it imposes on its market makers are no higher than necessary. With respect to payment-for-order-flow, the ISE states that it historically has collected more money than its Primary Market Makers have paid out. The ISE believes that it can adequately maintain this program with the reduced fee and ceiling. With respect to the marketing fee, the ISE currently has sufficient retained funds from the time the fee was in effect to pay for anticipated marketing efforts for the beginning part of next year. Thus, the ISE is proposing to extend this fee waiver through June 2003.

The basis for this proposed rule change is the requirement of section 6(b)(4) under the Act[7] that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

[4] *See* Securities Exchange Act Release Nos. 45128 (December 4, 2001), 66 FR 64325 (December 12, 2001) and 45772 (April 17, 2002), 67 FR 20563 (April 25, 2002). The ISE has divided the options it trades into 10 groups, with one Primary Market Maker assigned to each group. The ISE maintains a payment-for-order-flow fund for each group, consisting of the fees collected from market makers trading options in that group. The Primary Market Maker for the group is responsible for arranging and making all payments to Electronic Access Members for order flow sent to the ISE in options in that group.

[5] *See* Securities Exchange Act Release No. 44102 (March 26, 2001), 66 FR 17590 (April 2, 2001).

[6] *See* Securities Exchange Act Release No. 46189 (July 11, 2002), 67 FR 47587 (July 19, 2002).

[7] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The ISE has not solicited, and does not intend to solicit, comments on this proposed rule change. The ISE has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(2) thereunder[9] because it changes an ISE fee. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to SR–ISE–2002–26 and should be submitted by January 6, 2003.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31592 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46948; File No. SR–NASD 2002–157]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Regarding ACT Risk Management

December 4, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is filing a proposed rule change to NASD Rule 6150 regarding the risk management function provided by Nasdaq's Automated Confirmation Transaction Service (''ACT''). Upon approval of the proposed rule change, Nasdaq will permit members to voluntarily utilize the ACT risk management function, provided that they utilize another risk management tool of equal quality and that they and the correspondent firms for whom they clear trades continue to report clearing-eligible trades to ACT in compliance with applicable ACT rules. The text of the proposed rule change is available at Nasdaq and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ACT is an automated trade reporting and reconciliation service that speeds the post-execution steps of price and volume reporting, comparison, and clearing of pre-negotiated trades completed in Nasdaq, OTC Bulletin Board, and other over-the-counter securities. ACT handles transactions negotiated over the phone or executed through any of Nasdaq's automated trading services. It also manages post-execution procedures for transactions in exchange-listed securities that are traded off-board in the Nasdaq InterMarket. Participation in ACT is mandatory for NASD members that are members of a clearing agency registered with the Commission, that have a clearing arrangement with such a member, or that participate in any of Nasdaq's trading services.

An integral part of ACT is the risk management function. The ACT risk management function provides firms that clear for other firms with the capability to establish acceptable levels of credit for their introducing firms. ACT risk management also enables clearing brokers to monitor buy/sell-trading activity of their introducing firms, establish trading thresholds, allow/inhibit large trades, add/delete clearing relationships, and access a real-time database of correspondent trading activity.[3] Clearing brokers providing clearing services to correspondent firms are assessed risk management charges of $0.035 per trade and $17.25 per month per correspondent firm with charges limited to a maximum of $10,000 per month per correspondent.[4] Given their lack of credit exposure, self-clearing brokers without correspondents have no reason to utilize the ACT risk management function and are not assessed risk management charges.

The ACT service was implemented for self-clearing firms in March 1990.[5] The ACT service for clearing brokers and their executing correspondents, including the risk management function, was implemented in October 1990;[6] the ACT risk management service charge was implemented in November 1990.[7] The NASD's impetus for creating ACT risk management was the market break of 1987. After studying the market break, the Commission urged the NASD to create an automated system to facilitate rapid, reliable trade comparison and clearing. At that time, clearing brokers and clearing Agencies urged the NASD to include a real-time risk management tool within its new automated system.[8]

Nasdaq considers risk management to be a mandatory service for all clearing brokers because effective, real-time, risk management by each and every clearing broker is critical to the protection of investors and other market participants. Recently, however, Nasdaq has learned that clearing brokers have developed their own risk management procedures and controls comparable to the service provided by ACT. While ACT risk management is integral to the surveillance procedures of many clearing firms, Nasdaq recognizes that a one-size-fits-all approach may no longer be appropriate to meet the surveillance needs of all clearing brokers, particularly in light of the constantly evolving ownership structures of many clearing firms and broker-dealers.

As such, Nasdaq would like to make ACT risk management an optional service for all clearing brokers that clear for correspondents reporting trades into ACT. In order to ensure that all clearing brokers continue to effectively manage their risk, Nasdaq will require that a clearing broker meet several conditions prior to opting out of the ACT risk management service. First, a clearing broker must submit a letter that specifies the correspondent or correspondents for which it no longer requires the risk management service. Additionally, it must state in its letter that it uses an internal risk management capability to monitor the trading activities and risk exposures of its correspondents for which it is opting out of the service. Finally, clearing brokers that discontinue the use of ACT risk management, as well as the correspondents for whom they clear, must continue to comply with all applicable rules governing the reporting of trades to ACT.

Once Nasdaq receives a satisfactory letter from a clearing broker requesting relief from ACT risk management, Nasdaq will discontinue the assessment of risk management charges for the specified correspondent(s) on the first day of the month following the date the firm requested relief from ACT risk management charges.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[9] in general and with section 15A(b)(6) of the Act,[10] in particular, in that the proposal is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a national market system and, in general, to protect investors and the public interest. By requiring clearing brokers to utilize a risk management tool comparable to its own, Nasdaq hopes to ensure that there is no degradation in risk management practices. If, in the future, Nasdaq determines that a degradation of this sort has occurred, Nasdaq will reassess this rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Nasdaq has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

[3] *See* NASD Rule 6150.

[4] *See* Securities Exchange Act Release No. 34–42984 (June 27, 2000), 65 FR 41119 (July 3, 2000) (File No. SR–NASD–00–35).

[5] *See* Securities Exchange Act Release No. 34–27229 (September 8, 1989), 54 FR 38484 (September 18, 1989) (File No. SR–NASD–89–25).

[6] *See* Securities Exchange Act Release No. 34–28583 (October 26, 1990), 55 FR 46120 (November 1, 1990) (File No. SR–NASD–89–25).

[7] *See* Securities Exchange Act Release No. 34–28595 (November 5, 1990), 55 FR 47161 (November 9, 1990) (File No. SR–NASD–90–57).

[8] *See* SR–NASD–89–25 (May 31, 1989), and Amendments thereto.

[9] 15 U.S.C. 78o–3.

[10] 15 U.S.C. 78o–3(b)(6).

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–157 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31551 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46974; File No. SR–NASD–2002–113]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to the Implementation of a Fingerprinting Program for Nasdaq Employees and Independent Contractors

December 9, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 16, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq amended the proposed rule change on September 10, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to adopt NASD Rule 0140, Fingerprint-Based Background Checks of Nasdaq Employees and Independent Contractors, which will establish a program for conducting fingerprint-based background checks of Nasdaq employees and independent contractors. Nasdaq will implement the proposed rule change as soon as practicable following approval by the Commission. Below is the text of the proposed rule, as amended. Proposed rule language, as amended, is in italics.

0140. Fingerprint-Based Background Checks of Nasdaq Employees and Independent Contractors.

(a) In order to enhance the physical security of the facilities, systems, data, and information of The Nasdaq Stock Market, Inc. (''Nasdaq''), it shall be the policy of Nasdaq to conduct a fingerprint-based criminal records check of (i) all prospective and current employees, (ii) all prospective and current independent contractors who have or are anticipated to have access to Nasdaq facilities for ten business days or longer, and (iii) all prospective and current temporary employees who have or are anticipated to have access to Nasdaq facilities for ten business days or longer. Nasdaq shall apply this policy in all circumstances where permitted by applicable law.

(b) Nasdaq shall submit fingerprint cards obtained pursuant to the foregoing policy to the Attorney General of the United States or his or her designee for identification and processing. Nasdaq shall at all times maintain the security of fingerprint cards and information received from the Attorney General or his or her designee.

(c) Nasdaq shall evaluate information received from the Attorney General or his or her designee in accordance with the terms of a written fingerprint policy and provisions of applicable law. A felony or serious misdemeanor conviction will be a factor in considering whether to hire a prospective employee, take adverse employment action with respect to a current employee, or deny prospective or current independent contractors or temporary employees access to Nasdaq's facilities.

(d) A prospective employee who refuses to submit to fingerprinting shall be denied employment by Nasdaq, and a prospective independent contractor or temporary employee who refuses to submit to fingerprinting shall be denied access to Nasdaq facilities. A current employee, independent contractor, or temporary employee who refuses to submit to fingerprinting will be terminated following notice and being given three opportunities to submit.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In the wake of the September 11, 2001 terrorist attacks, Nasdaq has been exploring ways in which to enhance the security of the critical financial infrastructure that it operates. Market participants use Nasdaq systems to execute and report transactions in Nasdaq-listed securities and rely upon Nasdaq for the dissemination of quotation and transaction information,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* September 9, 2002, letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission (''Amendment No. 1''). In Amendment No. 1, Nasdaq added language to the proposed rule text to indicate that the rule applies only where permitted by applicable law and deleted text from the Purpose sections of the form and draft notice related to the preemption of certain state laws by Commission order.

while the capital markets have traditionally looked to Nasdaq as the market of choice for new listings. According to Nasdaq, 4,109 companies (with a market valuation of $2.9 trillion) had shares listed for trading on Nasdaq as of December 31, 2001; the average daily volume of transactions during 2001 was 1.9 billion shares valued at $44.1 billion. Accordingly, a significant disruption in the operation of Nasdaq systems could have serious adverse effects on U.S. and world financial markets.

Nasdaq has active and aggressive programs in place to minimize the risk of system disruptions, including the use of multiple computer facilities in separate geographic locations that are designed to provide redundancy and back-up. In addition, since 1999, Nasdaq has conducted background checks and urinalysis drug testing of all new employees. The background check involves verification of social security number, previous employment, education, credentials, and professional licenses, as well as a name-based criminal record check. The latter consists of an examination of courthouse records of counties where the applicant, according to his employment application, resided during the past seven years. Although this process constitutes a measure of due diligence, it is subject to evasion by applicants who provide false information. Moreover, it does not provide a basis for conducting a comprehensive nationwide search of records. As a result, even if an applicant with a criminal history provides accurate information, the search would not uncover pertinent records if the applicant was tried and convicted in a jurisdiction other than his place of residence.

By contrast, a background check that makes use of the fingerprint database maintained by the Federal Bureau of Investigation (''FBI'') permits a nationwide search that covers federal, state, local, and military convictions. Accordingly, it significantly reduces the number of ''false negatives'' (*i.e.*, failures to uncover pertinent criminal records) associated with less comprehensive searches and eliminates ''false positives'' caused by confusion of individuals having the same or similar names.

Access to the FBI's database is permitted only when authorized by law. Numerous federal and state laws, however, authorize employers to conduct fingerprint-based background checks that make use of the FBI's database.[4] Notably, section 17(f)(2) of the Act [5] and SEC Rule 17f–2 [6] require employees of broker-dealers, transfer agents, and clearing agencies to be fingerprinted and authorize self-regulatory organizations (''SROs'') to maintain facilities for processing and storing fingerprint cards and criminal record information received from the FBI database with respect to such cards. Ironically, section 17(f)(2) of the Act [7] does not require SROs to fingerprint their own employees. Nasdaq strongly believes, however, that a proposed rule change to institute a fingerprinting program for Nasdaq employees and independent contractors will enhance NASD's ability to perform its statutory obligations under section 15A of the Act [8] and is therefore authorized under that section. Specifically, by allowing Nasdaq to conduct a more thorough background check of persons that have access to Nasdaq facilities, the proposed rule change will enhance Nasdaq's ability to identify and exclude individuals whose prior criminal activities may pose a threat to the security of Nasdaq operations. This will in turn assist NASD in carrying out the purposes of the Act, preventing fraudulent and manipulative acts and practices, promoting just and equitable principles of trade, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and protecting investors and the public interest. Moreover, although section 17(f)(2) of the Act does not mandate the fingerprinting of SRO employees, it explicitly directs the Attorney General (*i.e.*, the FBI) to provide SROs designated by the Commission with access to criminal history record information.

The rule that Nasdaq is proposing is concerned with the administration of Nasdaq and Nasdaq believes that it might therefore be filed on an immediately effective basis pursuant to section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(3) [10] thereunder. However, Nasdaq is seeking Commission approval for the rule under section 19(b)(2) [11] because Nasdaq believes that it would not be appropriate or practical to institute a fingerprinting program without an explicit determination by the Commission that the program is authorized under the Act. Nasdaq believes that such a determination will be required by the FBI as a precondition to Nasdaq obtaining an Originating Agency Identifier (''ORI'') number from the FBI that will identify Nasdaq as an entity authorized to submit fingerprints to the FBI.

According to Nasdaq, an act to require fingerprint-based background checks of SRO employees who are regularly employed in New York State was passed by both the New York State Assembly and Senate and signed into law by Governor George E. Pataki on August 20, 2002.[12] The New York law also requires SROs to fingerprint independent contractors that provide services to them if those individuals have ''access to records * * * or other material or secure buildings or secure property, which place the security of [the SRO] at risk.'' The New York law will require Nasdaq to implement its proposed fingerprinting program for employees and some independent contractors in New York State. However, Commission approval of the program would still be required to implement the program in other states where Nasdaq has critical operations, especially Connecticut and Maryland.[13]

As reflected in the text of the proposed rule change, the program will apply to prospective and current employees, as well as prospective and current temporary employees and independent contractors who have or are anticipated to have access to Nasdaq facilities for ten business days or longer. Refusal to submit to fingerprinting will be grounds for termination or denial of employment or access to Nasdaq facilities. Information received from the FBI concerning an individual will be evaluated in accordance with the terms of a written fingerprint policy, which reflects the application of employment laws governing the use of information concerning criminal convictions in employment decisions. In accordance with such laws, a felony or serious

[4] *See, e.g.*, 42 U.S.C. 5119a (child care providers); Pub. L. 92–544, 86 Stat. 1109, 1115 (employees of federally chartered or insured banks); Alaska Stat. 04.11.295 (liquor license applicants); Ariz. Rev. Stat. 32–122.02 (home inspectors); Cal. Bus. & Prof. Code 6980.18 (locksmiths); Fla. Stat. 468.453 (athlete agents); Official Code Ga. Ann. 43–47–6 (used car dealers); Ohio Rev. Code Ann. 3770.051 (vendors of lottery equipment).

[5] 15 U.S.C. 78q(f)(2).

[6] 17 CFR. 240.17f–2.

[7] 15 U.S.C. 78q(f)(2).

[8] 15 U.S.C. 78o–3.

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(3).

[11] 15 U.S.C. 78s(b)(2).

[12] 2002 N.Y. Laws 453 (Aug. 20, 2002).

[13] Nasdaq notes that a California statute provides that employers in that state may not require employees to submit to fingerprinting as a condition of employment if the fingerprints are provided to a third party. Cal. Labor Code 1051. Although Nasdaq has a small number of California employees, they are not involved in the day-to-day operation of Nasdaq market systems. Accordingly, Nasdaq will exempt California employees from its program.

misdemeanor conviction will be a factor in considering whether to hire a prospective employee, take adverse employment action with respect to a current employee, or deny prospective or current independent contractors or temporary employees access to Nasdaq's facilities.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(2) and (b)(6) of the Act,[14] in that the proposal is designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove the impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. Nasdaq believes that the proposed rule will assist the NASD in carrying out the purposes of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change, as amended, would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change as amended, or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–113 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31591 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46977; File No. SR–NASD–2002–160]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Remove Inoperative Rule Language Relating to Fees for the Nasdaq Workstation I Service

December 9, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Nasdaq has prepared. Nasdaq has designated this proposal as one concerned solely with the administration of the self-regulatory organization under section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(3) thereunder,[4] which renders the rule immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to amend NASD Rules 7010(f) and 7020 to remove inoperative rule language relating to fees for the discontinued Nasdaq Workstation I service. Nasdaq will implement the proposed rule change immediately upon filing.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in [brackets].

A. Rule 7010. System Services

(a)–(e) No change.

(f) Nasdaq Workstation™ Service:

(1) [The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via an authorized personal computer (PC):]

[Service Charge]	[$345/PC/month].
[Advance Communication Charge]	[$135/PC/month for the first unit, $85/PC/month for each additional unit at the same site].
[Maintenance (offered only on UNISYS and Tandem PCs)]	[$55/PC/month].
[Second Monitor/keyboard Attached to an Authorized PC]	[$195/month].

[14] 15 U.S.C. 78o–3(b)(2) and 15 U.S.C. 78o–3(b)(6).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

[(2)] The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via equipment and communications linkages prescribed for the Nasdaq Workstation II Service:

Service Charge	$1,875/month per service delivery platform (''SDP'') from December 1, 2000 through February 28, 2001, $2,035/month per SDP beginning March 1, 2001.
Display Charge	$525/month per presentation device (''PD'').
Additional Circuit/SDP Charge	$3,075 per month from December 1, 2000 through February 28, 2001, and $3,235/month beginning March 1, 2001*.
Maintenance	*$55/SDP or PD logon/month.*

A subscriber that accesses Nasdaq Workstation II Service via an application programming interface (''API'') shall be assessed the Service Charge for each of the subscriber's SDPs and shall be assessed the Display Charge for each of the subscriber's API linkages, including an NWII substitute or quote-update facility. API subscribers also shall be subject to the Additional Circuit /SDP Charge.

(3) No change.

* A subscriber shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its SDPs by placing eight PDs and/or API servers on an SDP and obtains an additional SDP(s); in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP(s) (*i.e.*, the difference between the number of SDPs a subscriber has and the number of SDPs the subscriber would need to support its PDs and/or API servers, assuming an eight-to-one ratio). A subscriber also shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its T1 circuits by placing eighteen SDPs on a T1 circuit; in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP slot on the existing T1 circuit(s). Regardless of the SDP allocation across T1 circuits, a subscriber will not be subject to the Additional Circuit/SDP Charge if the subscriber does not exceed the minimum number of T1 circuits needed to support its SDP, assuming an eighteen-to-one ratio.

(g)–(s) No change.

7020. [Equipment Related Charges] *Reserved*

[(a) The charge for using Nasdaq terminal equipment shall be $120 per month for the first terminal and $105 per month for each additional terminal where all terminals are located on the same premises.]

[(b) The charge for using interrogation or display devices which are not supplied by Nasdaq, but which utilize a Nasdaq supplied modem, shall be $75 per month for the first comparable device and $55 per month for each additional comparable device where all devices are located on the same premises.]

[(c) The charge for using interrogation or display devices and modems which are not supplied by Nasdaq shall be $50 per month for each such device located on the same premises.]

[(d) Nasdaq subscribers utilizing UNISYS or Tandem personal computers (PCs) authorized for emulation of the Harris standard terminal may elect to receive maintenance through Nasdaq at the rate of $55/PC/month.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule filing is to remove several provisions from Nasdaq's schedule of charges for service and equipment that reflect charges for the discontinued Nasdaq Workstation I service, which was replaced by the Nasdaq Workstation II service (''NWII'') during the mid-1990s.[5] The services to which these charges relate are no longer provided by Nasdaq, so the fees are being removed from the rules. In addition, language relating to a $55 per month computer hardware maintenance fee, which remains applicable to NWII, is being relocated, with updated terminology being used to describe the fee.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[6] including section 15A(b)(5) of the Act,[7] which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility of system which the NASD operates or controls. The proposed rule change removes discontinued Nasdaq Workstation I services from Nasdaq's schedule of charges, thereby clarifying rule language related to fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(3) thereunder.[9] At any time within 60 days after the filing of this proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection

[5] *See* Securities Exchange Act Release No. 35189 (January 3, 1995), 60 FR 3014 (January 12, 1995) (SR–NASD–94–76).

[6] 15 U.S.C. 78o–3.

[7] 15 U.S.C. 78o–3(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(3).

of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–160 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31593 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46958; File No. SR–NSCC–2002–08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to New Clearing Fund Valuation of Deposited Securities

December 6, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 3, 2002, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify NSCC's clearing fund rules to permit NSCC to apply haircuts to securities pledged by NSCC participants as clearing fund collateral.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of NSCC's Rules and Procedures to establish haircuts for securities posted by NSCC members as clearing fund collateral.

Under Rule 4, NSCC members are required to make deposits to NSCC's clearing fund.[3] Rule 4 also states that NSCC, at its discretion, may permit part of a member's (with the exception of ''mutual fund/insurance services members'') clearing fund deposit to be evidenced by an open account indebtedness secured by (a) unmatured bearer bonds that are either direct obligations of or obligations guaranteed as to principal and interest by the United States or its agencies (''qualifying bonds'') and/or (b) one or more irrevocable letters of credit under certain guidelines established within NSCC's rules.[4]

In its efforts to ensure that it has adequate collateral to cover its members' obligations, NSCC has decided to haircut the value of securities deposited to meet clearing fund requirements. The proposed haircut percentages will range from 2% to 5% and will be based on the type of security deposited, its market risk, and years to maturity.[5] The proposed haircuts are similar to those currently applied by The Depository Trust Company as a part of its risk management controls. These percentages may change from time to time and NSCC will communicate any changes to participants should this occur.

NSCC intends to implement this change no sooner than thirty days after the Commission's approval of this proposed rule filing provided, however, that NSCC would like to make this change effective concurrent with the changes covered by proposed rule change File No. SR–NSCC–2002–05.[6]

NSCC believes that this proposed rule change is consistent with the provisions of the Act and the rules and regulations there under because it will ensure that NSCC is able to better safeguard securities and funds in its possession.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] The amount of each member's required deposit is determined by NSCC in accordance with one or more formulas.

[4] The Commission recently approved a NSCC proposed rule change (File No. SR–NSCC–2002–05) that increased the minimum amount of cash that must be deposited by members (with the exception of ''mutual fund/insurance services members'') to satisfy clearing fund requirements and that limited the amount of a deposit that may be collateralized with letters of credit. Securities Exchange Act Release Nos. 46931 (Nov. 27, 2002) and 46389 (Aug. 21, 2002), 67 FR 55053 (Aug 27, 2002).

[5] NSCC's proposed haircut schedule for U.S. Treasury and agency securities is: Interest bearing with remaining terms to maturity of up to 10 years—2%; Interest bearing with remaining terms to maturity in excess of 10 years—5%; Zero coupon with remaining terms to maturity of up to 5 years—2%; Zero coupon with remaining terms to maturity in excess of 5 years—5%.

[6] *Supra* note 4.

organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at NSCC's principal office. All submissions should refer to File No. SR–NSCC–2002–08 and should be submitted by December 31, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–31555 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46960; File No. SR–NYSE–2002–62]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Continuing Annual Fees for Domestic and Non-U.S. Issuers, Technical Original Listing Fees, and Supplemental Listing Applications Fees (Sections 902.02, 902.03, and 902.04 of the NYSE Listed Company Manual)

December 6, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 20, 2002, the New York Stock Exchange, Inc. (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to amend Sections 902.02, 902.03, and 902.04 of the NYSE's Listed Company Manual (the ''Manual'') to increase and simplify the continuing annual listing fee pricing for all listed companies (excluding closed-end funds), and to increase the fee for technical original listings and supplemental listing applications. The NYSE is also proposing to make permanent an overall $1 million per issuer fee cap that has been in effect on a pilot basis, scheduled to expire on December 31, 2002.[3] The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE is proposing changes to certain of its original and continuing annual listing fees, all of which it proposes will become effective on January 1, 2003.

The NYSE in recent years has reduced or capped listing fees in several respects.[4] However, the NYSE has determined that certain listing fee increases have now become necessary to ensure that revenue is adequate to satisfy increasing costs for operations, technology, regulation and infrastructure. The proposed revisions to listing fees are intended to increase revenue, simplify the continuing annual fee structure and change a historical policy that has kept the continuing fees of certain companies at unusually low levels. While the NYSE believes these proposed fee increases will impact listed companies, it should be noted that the NYSE is also increasing fees applicable to members and member organizations. Such member fee increases are being filed in a separate rule proposal.

The NYSE believes the simplest of the changes proposed herein are increases to the ''technical original'' listing fee and the minimum fee charged for consideration of a listing application. Section 902.02B of the NYSE Listed Company Manual provides for a ''reduced initial fee'' of $5,300 when a company makes a technical change in the nature of the company without substantively affecting the equity position or rights of its common shareholders. This fee, often referred to as a ''technical original'' listing fee, applies when, for example, a company changes its state of incorporation or reincorporates, forms a holding company which replaces the listed company, or does a reverse split. The NYSE is proposing to increase this fee from $5,300 to $15,000.

Section 902.02B of the NYSE Listed Company Manual also specifies that the minimum fee for the consideration of any listing application is $1,500. When shares are being issued concurrently with the application, the company is charged the greater of the per share rate or this minimum fee. (Similarly, the minimum fee would not be payable when the company pays the higher ''technical original'' listing fee described in the immediately preceding paragraph.) However, this $1,500 fee is

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[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43163 (August 16, 2000), 65 FR 51389 (August 23, 2000) (SR–NYSE–00–16).

[4] For example, *see* Securities Exchange Act Release No. 42270 (December 22, 1999), 65 FR 312 (January 4, 2000) (SR–NYSE–99–41), (capping original listing fees at $500,000); Securities Exchange Act Release No. 43164 (August 16, 2000), 65 FR 51387 (August 23, 2000) (SR–NYSE–00–15), (implementing a flat initial listing fee for tracking stocks, later modified to cover all additional classes of common stock); Securities Exchange Act Release No. 45995 (May 29, 2002), 67 FR 39089 (June 6, 2002) (SR–NYSE–2002–20) (implementing a flat initial listing fee for tracking stocks to cover all additional classes of common stock); Securities Exchange Act Release No. 43163, 65 FR 51389 (August 23, 2000) (SR–NYSE–00–16), (capping total listing fees per issuer in any given calendar year at $1 million); and Securities Exchange Act Release No. 43700 (December 11, 2002), 65 FR 79147 (December 18, 2000) (SR–NYSE–00–48), (reducing the original listing fee cap to $250,000 and imposed a new allocation fee on NYSE specialists).

payable either when shares are listed as part of a reserve for future issuances (since the per share fee is not applied until that future date), or when the company makes a technical supplemental application that does not involve the listing of additional shares, such as an application to record a change of corporate name, or a change to the par value or title of a security. The NYSE is proposing to increase this fee from $1,500 to $2,500.

The NYSE proposes to amend Section 902.02 of the NYSE Listed Company Manual, which relates to the continuing annual listing fee.[5] This fee is payable annually on each security listed on the NYSE and traded as an equity on the NYSE's trading floor. The NYSE believes that the changes being proposed will represent an overall increase in continuing annual fee revenue to the NYSE, but will also significantly simplify the fee schedule, making the NYSE's fees more easily understandable to listed companies and others.

It should first be noted that the NYSE considers it appropriate to ameliorate the immediate impact of these changes on any particular company. Accordingly, the impact of these proposed changes to the continuing annual fee as described below will be capped for each issuer at $75,000 for calendar 2003, and at $150,000 for calendar 2004.[6] For a company hitting both those caps, the full impact of these price changes would not be borne until calendar 2005.

Continuing annual fees for each issuer are based on the number of its securities listed (including American Depositary Securities represented by American Depositary Receipts), and there is a schedule of per share rates set forth in Section 902.02C (Section 902.04C for non-U.S. companies) of the NYSE Listed Company Manual. Currently that schedule is tiered, with a per share rate of $1,650 per million shares for the first and second million shares, and a per share rate of $830 per million shares for additional shares beyond two million. The NYSE is proposing to eliminate the tiers, so that the per share rate will simply be $930 per million shares subject to a minimum continuing annual fee of $35,000, as provided for in Section 902.04C of the proposed rule change to the NYSE Listed Company Manual.

The NYSE's current price schedule, as set forth in Section 902.02C of the NYSE Listed Company Manual, includes a concept informally referred to as ''range minima,'' in which issuers with up to 50 million shares listed pay a minimum continuing annual fee of $35,000, those with up to 100 million shares listed pay a minimum continuing annual fee of $48,410, those with up to 200 million shares listed pay a minimum of $64,580, and those with more than 200 million shares listed pay a minimum of $80,440. In a further effort to simplify our pricing structure, the NYSE is proposing to eliminate these ''ranges,'' leaving only the basic minimum fee of $35,000 referred to above.

Continuing annual fees, which are set forth in Section 902.02C and Section 902.04C of the NYSE Listed Company Manual, are assessed separately on each class of security issued. Because some companies have more than one class of common stock listed on the NYSE, the NYSE currently provides that if one class pays the $35,000 minimum fee, the other class(es) are subject to lower minima (ranging from $16,170 to $32,320) depending on the number of shares listed. To simplify this structure, the NYSE is proposing that when a company has multiple classes of common stock listed on the NYSE, the class with the greatest number of shares outstanding will be subject to the $35,000 minimum, and each additional class of common stock will be subject to a minimum fee of $20,000 per class.

Under Section 902.02C of the NYSE Listing Standards, classes of securities other than common stock are currently subject to the same continuing annual fee rate schedule as common stock, but with a lower minimum fee of $3,600, rather than $35,000. Accordingly, the NYSE proposes that the new rate schedule of $930 per million shares will apply to these securities, and the applicable minimum will be raised from $3,600 to $5,000. Also, the NYSE notes that in the case of companies with listed preferred stock that do not have common stock listed here, the original listed preferred issue will be subject to the $35,000 minimum annual fee, although other classes listed will be subject to the $5,000 minimum.

''Short-term securities'' are those securities having a term of seven years or less (*e.g.*, index warrants, foreign currency warrants, contingent value rights, *etc.*). Section 902.03B of the NYSE Listed Company Manual currently provides for a special set of ''range minima'' applicable to such securities, that actually subjects such issues to higher minimum continuing annual fees than are otherwise applied to non-common stock securities as described in the preceding paragraph. To eliminate this anomaly, the NYSE proposes to amend Section 902.03B of the NYSE Listed Company Manual to apply to such ''short term securities'' the new rate schedule of $930 per million shares, and to also apply the same $5,000 annual minimum as is applicable to other non-common securities.

Finally, Section 902.02C of the NYSE Listed Company Manual currently removes from the calculation of continuing annual fees any shares which have been listed for a period of 15 years or more. This policy results in companies having disparate continuing annual fees despite having similar amounts of stock listed on the NYSE. The NYSE proposes to eliminate this policy for all listed companies with the exception of closed-end funds.

Separate and distinct from the foregoing price changes, the NYSE also proposes to make permanent a per issuer overall $1 million fee cap that was implemented starting with the 2000 calendar year.[7] That cap, codified in Section 902.02, by its terms was put into effect on a pilot basis for three years, through calendar 2002. The NYSE's experience with this rule has demonstrated that it is an appropriate limitation to avoid overburdening any particular company in an unusual year, and the NYSE proposes to make the pilot permanent.

2. Statutory Basis

The NYSE believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[8] which provides that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

[5] At this time, the NYSE is not making any change to the continuing annual fees as applied to closed end funds listed on the NYSE, which continue to be subject to the fee schedule currently in effect. The Commission notes, however, that the NYSE is in the process of developing a revised fee schedule for closed-end fund issuers.Telephone conversation between Annmarie Tierny, Senior Counsel, Office of General Counsel, NYSE and Tim Fox, Law Clerk, Division of Market Regulation, December 5, 2002. In addition, no changes are being proposed to the several specific pricing provisions provided in Section 902.02C for ''fund families'' with a number of funds listed on the NYSE.

[6] The Commission notes that the NYSE represented that it communicated these fee caps to issuers in a letter sent to the issuers during calendar year 2002. Telephone conversation between Annmarie Tierny, Senior Counsel, Office of General Counsel, NYSE and Tim Fox, Law Clerk, Division of Market Regulation, Commission, December 5, 2002.

[7] *See* Securities Exchange Act Release No. 43163 (August 16, 2000), 65 FR 51389 (August 23, 2000) (SR–NYSE–00–16).

[8] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The NYSE has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2002–62 and should be submitted by December 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–31553 Filed 12–13–02; 8:45 am]

BILLING CODE 8010–01–P

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3473]

State of Alaska

As a result of the President's major disaster declaration on December 4, 2002, I find that the Kenai Peninsula Borough, Kodiak Island Borough, and Chignik Bay area to include Chignik, Chignik Lake, Chignik Lagoon in the State of Alaska constitute a disaster area due to damages caused by severe winter storms, flooding, coastal erosion and tidal surge occurring on October 23, 2002 and continuing through November 12, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 3, 2003 and for economic injury until the close of business on September 4, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

In addition, applications for economic injury loans from small businesses located in the following areas and jurisdictions may be filed until the specified date at the above location: Lake and Peninsula Borough, Matunuska-Susitna Borough, Municipality of Anchorage, Chugach Regional Educational Attendance Areas (REAA), and Iditarod Area REAA in the State of Alaska.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere:	5.875
Homeowners without credit available elswhere:	2.937
Businesses with credit available elsewhere:	6.648
Businesses and non-profit organizations without credit available elsewhere:	3.324
Others (including non-profit organizations) with credit available elsewhere:	5.500
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without credit available elswhere:	3.324

The number assigned to this disaster for physical damage is 347311. For economic injury the number is 9T6600 for Alaska.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 9, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–31549 Filed 12–13–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

International Standards on the Transport of Radioactive Materials; Conference

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of international conference.

SUMMARY: This notice is to advise interested persons that the International Atomic Energy Agency (IAEA), International Maritime Organization, and the Universal Postal Union are co-sponsoring an international conference on the safe transport of radioactive materials. The conference will take place at the Austria Centre, Vienna, Austria from July 7 through July 11, 2003. The objective of the conference is to exchange information on issues related to the safe transport of radioactive material and to formulate recommendations regarding further international co-operation in this area.

FOR FURTHER INFORMATION CONTACT: Richard Boyle, Radioactive Materials Branch, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; Phone: (202) 366–2993, Facsimile: (202) 366–3753, email: *rick.boyle@rspa.dot.gov.*

SUPPLEMENTARY INFORMATION: The conference is directed to a broad spectrum of professionals dealing with the safe transport of radioactive material. The preliminary agenda includes topical sessions on: adequacy and effectiveness of the international transport regulations; effectiveness of radiation protection in transport; packaging and transport of nuclear fuel cycle material; packaging and transport of non-nuclear fuel cycle material; compliance and quality assurance programming; liability in the transport of radioactive material; and emergency response and preparedness. There is no registration fee for this conference but all individuals and parties interested in attending must forward a completed participation form to the Office of Hazardous Materials Safety point of contact listed above for transmission to the IAEA by June 1, 2003. Individuals interested in submitting a paper for this conference should prepare it in accordance with the IAEA conference guidelines and submit it to both IAEA and the Office of Hazardous Materials Safety point of contact listed above by February 1, 2003. Copies of the official conference announcement, the participation and paper submission forms, and instructions and due dates for completion of these forms may be downloaded from the IAEA Transport Division's Web site at: *http://www.iaea.org/ns/rasanet/programme/radiationsafety/transportsafety/2_detailled_info_on_tsu_prog.htm.*

Issued in Washington, DC on December 4, 2002.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–31595 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration (RSPA), DOT

[Docket No. RSPA–98–4034]

Pipeline Safety: Project Modifications Approved for the Natural Gas Pipeline Company of America Pipeline Risk Management Demonstration Project

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice of risk management project modification and finding of no significant impact.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) has amended the Risk Management Demonstration Project Order issued to Natural Gas Pipeline Company of America (NGPL) to allow NGPL to conduct alternative risk control activities on five of its pipeline segments in lieu of compliance with certain pipeline safety regulations. OPS has also made a finding that this amendment will have no significant impacts on the environment.

ADDRESSES: Comments on this or any other demonstration project will be accepted in the Docket throughout the 4-year demonstration period. You may send comments to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0991, or you may submit your comments electronically by logging on to the following Internet Web address: *http://dms.dot.gov,* and then clicking on ''Help & Information'' for instructions on how to file a document electronically. Comments should identify the docket number RSPA–1998–4034. Persons should submit the original comment document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room 401, 400 Seventh Street, SW., Washington, DC. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Callsen, OPS, (202) 366–4572, regarding the subject matter of this document. Contact the Dockets Unit, (202) 366–5046, for docket material. Comments may also be reviewed on line at the DOT Docket Management System Web site at *http://dms.dot.gov/.*

SUPPLEMENTARY INFORMATION:

Project Order Amendment

On December 31, 1998, OPS issued Natural Gas Pipeline Company of America (NGPL) [1] a Risk Management Demonstration Project Order authorizing NGPL to conduct a risk management project on its interstate natural gas transmission pipeline system. The project was one of several demonstration projects in a risk demonstration program authorized by 49 U.S.C. 60126. Since that Order was issued, NGPL identified five segments in its pipeline system where it proposed to perform alternative risk control activities in lieu of compliance with the regulations addressing class location changes. In a Notice dated August 17, 2001 (66 FR 43295), OPS described in detail the five segments and the proposed alternative activities. OPS stated that its analysis of the proposed activities had found them likely to provide superior protection. OPS announced its intent to amend the Demonstration Project Order and allow the alternative activities, after consideration of public comment. OPS did not receive any public comment in response to that Notice.

This Notice announces OPS's issuance of an amendment to NGPL's Demonstration Project Order to exempt the five pipeline segments from compliance with 49 CFR 192.611 conditioned on NGPL performing the alternative activities. The decision to amend the Demonstration Project Order to allow the exemption is based on the conclusion that the alternative activities will provide superior safety to that provided by compliance with 49 CFR 192.611.

More detailed descriptions of all aspects of the NGPL demonstration project are available in the following documents:

(1) 66 FR 43295, ''Pipeline Safety: Intent to Approve Project Modifications and Environmental Assessment of Modifications for the Natural Gas Pipeline Company of America Risk Management Demonstration Project,''August 17, 2001.

(2) Docket Number RSPA–1998–4034–5, ''Appendix A: Environmental Assessment,'' August 14, 2001.

(3) 63 FR 46497, ''Pipeline Safety: Intent to Approve Project and Environmental Assessment for the Natural Gas Pipeline Company of America Risk Management Demonstration Project,'' September 1, 1998.

(4) 64 FR 1067, ''Pipeline Safety: Natural Gas Pipeline Company of America; Approved for Risk Management Demonstration Program,'' January 7, 1999.

(5) ''Demonstration Project Prospectus: Natural Gas Pipeline Company,'' available via the Pipeline Risk Management Information System (PRIMIS) on the OPS Web page at *http://ops.dot.gov,* and following the links to ''Initiatives'' and ''Risk Management Initiative.''

(6) ''Risk Management Demonstration Project Order,'' RMD 98–4, December 31, 1998.

(7) ''Amendment to Risk Management Demonstration Project Order,'' RMD 98–4, Amendment 1, November 18, 2002.

Finding of No Significant Impact (FONSI)

In accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4332), the Council on Environmental Quality regulations (40 CFR 1500–1508), and Department of Transportation (DOT) Order 5610.1c, Procedures for Considering Environmental Impacts, OPS conducted an Environmental Assessment (EA) of the alternative activities NGPL proposed

[1] In 1998, NGPL was acquired by KN Energy, Inc. In October, 1999, KN Energy merged with Kinder Morgan, Inc. The merged company is named Kinder Morgan, Inc. (KMI). NGPL now operates its pipeline system as a subsidiary of KMI. The scope of the Risk Management Demonstration Project remains limited to the NGPL system.

on the five pipeline segments (Docket #RSPA–1998–4034–5, ''Appendix A: Environmental Assessment'', August 14, 2001). In that EA, OPS concluded that the alternative activities would not have significant environmental impacts.

OPS received no public comment on the Environmental Assessment. Based on the analysis and conclusions reached in the Environmental Assessment and the analysis conducted in the above-listed documents, OPS has determined that there are no significant impacts on the environment associated with this action. The Environmental Assessment and the other above-listed documents are incorporated by reference into this FONSI. To summarize, OPS has concluded that the risk control alternatives on the five pipeline segments will provide superior protection for people living near the NGPL pipeline system when compared to current regulatory requirements. Although the alternative activities are expected to provide environmental benefits, due to the minimal environmental impact associated with gas pipeline failures, these benefits are not expected to be significant. The additional environmental protection results primarily from reducing the likelihood that pipeline failures will occur.

Issued in Washington, DC on December 9, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02–31542 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Customs Service

Modification, Expansion, and Re-Designation of National Customs Automation Program Test of the Account-Based Declaration Prototype To Free and Secure Trade

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: In this notice, Customs is re-designating the National Customs Automation Program (NCAP) test of an Account-Based Declaration Prototype (NCAP/P) as the Free and Secure Trade (FAST) prototype, and modifying the importer eligibility requirements from those set forth in a notice published in the **Federal Register** on August 21, 1998. The FAST prototype will provide expedited processing of participants' qualifying merchandise in designated traffic lanes, provided that the merchandise is transported by certain registered highway carriers and drivers and that specified data is submitted to Customs prior to the merchandise's arrival at the border. Customs is also announcing the addition of two additional ports of entry along the Northern Border for the testing of the prototype and the suspension of prototype participation at the one port of entry along the Southern Border. Participants in the present NCAP/P test need not reapply for participation in the FAST if they are participants in the Customs Trade Partnership against Terrorism (C–TPAT) initiative. Current NCAP/P participants must continue to follow all the operational procedures of the program and will be bound by the terms and conditions found in this notice effective upon publication of this notice. Public comments concerning any aspect of this test program or procedure are solicited.

EFFECTIVE DATES: The redesignated FAST program will begin upon publication of this notice. This prototype will be tested until the Automated Commercial Environment (ACE) is completed. Applications to participate in this NCAP prototype test may be submitted at any time throughout the duration of this test. Evaluations of the prototype will occur periodically. Public comments on any aspect of the planned test must be received on or before January 1, 2003. All comments received will be part of the public record and made available to third parties upon request.

ADDRESSES: Written requests to participate in the prototype test should be sent to U.S. Customs Service, FAST Registration Office, 50 South Main Street, Suite 100R, St. Albans, Vermont 05478. Comments regarding any aspect of the test should be sent or faxed to Enrique S. Tamayo, U.S. Customs Service, 1300 Pennsylvania Avenue NW., Room 5.2A, Washington, DC 20229, telephone number: (202) 927–3112; fax number: (202) 927–1096.

FOR FURTHER INFORMATION CONTACT:

For inquiries regarding the eligibility of specific importers contact: Richard DiNucci at (202) 927–6302;

For questions on reconciliation contact: John Leonard at (202) 927–0915;

For questions on statement processing contact: Debbie Scott at (202) 927–1962;

For questions on violation billing contact: Byron Kissane at (202) 927–2148;

For questions on other aspects of the FAST Prototype contact: Daniel Buchanan at (617) 565–6236.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1997 Customs published a General Notice in the **Federal Register** (62 FR 14731) that announced Customs plan to conduct a test, pursuant to § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), of a planned National Customs Automation Program component (*see* 19 U.S.C. 1411–1414) called an account-based declaration prototype, known by the acronym NCAP/P. The NCAP/P was developed to provide the first operational demonstration of the Automated Commercial Environment (ACE), with capabilities for processing imports that would integrate the new account-based import declaration process with other aspects of the Trade Compliance process and selected features of NCAP elements of Title VI of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057 (December 8, 1993), popularly known as the Customs Modernization Act which established the National Automation Program (NCAP) as an automated and electronic system for the processing of commercial importations. This phase of the NCAP/P test was initially limited to certain importers that imported certain merchandise by truck through three ports: Laredo, Texas; and Detroit and Port Huron, Michigan.

On August 21, 1998 Customs published another General Notice in the **Federal Register** (63 FR 44949) that replaced the previously published document to revise the importer eligibility requirements for participation in the NCAP/P, incorporate enhancements to reconciliation, and clarify the statement process. This second General Notice also outlined the development and evaluation methodology that would be used in the test. As with the first notice, public comments were invited on any aspect of the test. Reference to these earlier documents should be sought by importers interested in participating in this account-based declaration processing prototype, or interested in understanding the ACE Trade Compliance account-based declaration process, which includes remote location filing, statement processing, and reconciliation. Further, the information published by Customs on August 21, 1998, concerning the test development methodology, the general requirements for the prototype test, maintenance of account, misconduct procedures, identification of the regulatory provisions suspended, and evaluating the prototype, remains the same except as provided below.

It is noted that Customs also published another document in the **Federal Register** concerning the NCAP/P on October 15, 1998 (63 FR 55426). That document discussed Customs plan to expand the NCAP/P to five additional ports of entry. The planned expansion to those ports has yet to occur.

Prototype Changes

This document advises the public that Customs is redesignating the NCAP/P as the Free and Secure Trade (FAST) prototype and is modifying the importer eligibility requirements to reflect the need for ensuring security while facilitating the processing of merchandise. This document also announces the addition of two additional ports of entry along the Northern Border for the testing of the prototype and the suspension of prototype participation at the one port of entry along the Southern Border. Public comments concerning any aspect of this test are solicited.

The NCAP/P is redesignated as the FAST prototype to clearly show that importers must now participate in the Customs-Trade Partnership Against Terrorism (C–TPAT) Program to participate or to continue participating in the testing of the prototype and that U.S./Canada border highway carriers and their drivers must be FAST registered. Merchandise imported by C–TPAT participating importers will also be eligible for expedited processing along the U.S./Canada border in FAST-designated traffic lanes under Pre-Arrival Processing System (PAPS) procedures, provided that the U.S./Canada border highway carriers and the drivers are FAST registered. Conveyances transporting merchandise that is comprised of both shipments of merchandise of C–TPAT-participating importers and shipments of non-C–TPAT-participating importers will not be afforded FAST-expedited processing.

The C–TPAT is a joint government-business initiative to build cooperative relationships that strengthen overall supply chain and border security for the United States. Importers participate in the C–TPAT by agreeing to work with Customs in improving security procedures along the entire supply chain of the merchandise they import.

The FAST Program is a bilateral initiative between the United States and Canada to enhance the security and safety along their shared border, while also enhancing the economic prosperity of each country, by aligning, to the maximum extent possible, their customs commercial programs. A component of the Northern-border FAST Program is Highway Carriers Registration, which allows FAST-approved highway carriers and their designated drivers in possession of a valid FAST/Commercial Driver Card to use FAST-lane processing at designated ports of entry.

The PAPS (Pre-Arrival Processing System) is an automated cargo release procedure adopted by Customs that requires certain entry data generated by a carrier to be submitted to Customs prior to the arrival of the merchandise at the designated port of entry for cargo selectivity concerns and utilizes barcode technology to expedite the release of those commercial shipments not selected for examination. To process a PAPS transaction, the carrier attaches a unique barcode label which consists of the carriers Standard Carrier Alpha Code (SCAC) and pro bill number to each invoice and truck manifest while the merchandise is still in Canada. This information is then transmitted to the U.S. Customs broker who prepares a Border Cargo Selectivity entry in the Automated Commercial System (ACS) before the merchandise arrives at the U.S. border. When the merchandise arrives at the U.S. border, the Customs inspector wands the barcode information which automatically retrieves the entry information from the ACS system. If no examination is needed, the Inspector releases the truck from the primary booth; thus, reducing the carrier's wait time and easing congestion at that border crossing.

For further information and application procedures regarding the C–TPAT and Northern-border FAST initiatives, and for further information regarding the PAPS procedures visit Customs Web site at *http://www.customs.ustreas.gov/tpatf.htm.*

The importer eligibility requirements for participation in the redesignated FAST prototype are modified to reflect the need for ensuring security while facilitating the processing of properly documented merchandise. Applicants no longer have to be designated as within the top echelon of importers or import merchandise within any of the Customs Primary Focus Industry categories, but must be a participant in the C–TPAT initiative; existing NCAP/P participants must be prepared to follow all the operational procedures and will be bound by the terms and conditions found in this and the previously cited notice. Further, if the importer will be entering merchandise along the Northern border, then both the Northern-border highway carriers and their drivers must be FAST registered.

Regarding the addition of two additional ports of entry along the Northern Border for the testing of the prototype and the suspension of prototype participation at the one port of entry along the Southern Border, from the date of publication of this notice, importers may now enter merchandise for prototype processing at the Northern-border ports of:

1. Port Huron (Blue Water Bridge) and Detroit (Ambassador Bridge and/or Windsor Tunnel), Michigan;
2. Blaine, Washington; and
3. Buffalo (including the Peace Bridge and Lewiston Bridge) and Champlain, New York.

At this time, prototype processing is suspended at the Southwest-border port of entry at Laredo, Texas. Customs will consider re-establishing this prototype at the Laredo port of entry if sufficient interest is shown by the importing community.

Application for FAST

Participants in the present NCAP/P need not re-apply to participate in the FAST prototype, but must be prepared to follow all the operational procedures and will be bound by the terms and conditions found in the previously cited notice and this notice effective upon publication of this notice and their carriers and drivers must become FAST registered by February 1, 2003 to continue receiving expedited release under FAST. For ease of reference, the application information for new applicants, is set forth in this document.

Importers who wish to participate in the FAST prototype must submit an application to the St. Albans, Vermont, Service Port at the address indicated with the following information:

A. Importer's name, address, and IRS employer identification number or social security number;

B. Names and addresses of all shippers and all sellers/vendors for the FAST prototype;

C. A listing of all the 6-digit HTS numbers under which the imported commodities will be classified;

D. The surety and surety code and the number of the continuous surety bond which will cover all cargo processed under FAST procedures. If the applicant plans to reconcile their FAST entry summaries, a commitment to file the bond rider prior to flagging underlying entry summaries for reconciliation, along with identification of the port in which the continuous bond and rider are filed must be included;

E. Names, addresses, and SCAC of truck carriers who will be transporting FAST shipments across the international borders. Note, both the highway carriers and their drivers must be FAST registered;

F. Names, addresses and filer codes of any customs brokers who will be filing data;

G. The approximate total number of entries per month expected to be processed at each of the following locations:

1. Port Huron (Blue Water Bridge) and Detroit (Ambassador Bridge and/or Windsor Tunnel), Michigan;

2. Blaine, Washington; and

3. Buffalo (including the Peace Bridge and Lewiston Bridge) and Champlain, New York;

H. Detailed description of anticipated issues and/or commodities for which the participant anticipates electing reconciliation.

I. Because the Importer Compliance Monitoring Program test was terminated on May 30, 2002 (*see*, **Federal Register** document published April 30, 2002 (67 FR 21322)) in favor of a new program called the Importer Self-Assessment (*see*, **Federal Register** document published June 17, 2002 (67 FR 41298)), the former NCAP/P requirement to furnish in the application a statement in which the applicant commits to undergo and cooperate fully with a Customs Compliance Assessment is no longer applicable.

Customs will make admissibility determinations on FAST shipments based on cargo examinations and the information supplied with the application, which will serve as a pre-filed entry for FAST purposes. Existing NCAP/P participants are not required to re-submit identification of their existing suppliers. However, the carriers and drivers employed for FAST processing under this prototype will be required to become FAST registered for the importer to continue receiving expedited release under FAST by February 1, 2003.

Importers who submit applications to participate in the FAST will be notified in writing of their acceptance or rejection. If an applicant is denied participation, the notification letter will include the reasons for that denial. Eligible importers whose initial application is rejected may re-apply upon correction of the situation that led to the denial.

Dated: December 11, 2002.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 02–31578 Filed 12–13–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

FLETC Glynco, GA; Notice of Availability of Document for Review

AGENCY: Federal Law Enforcement Training Center, Treasury.

ACTION: Notice of availability of environmental assessment for public review.

SUMMARY: Notice is hereby given that the Federal Law Enforcement Training Center (FLETC), pursuant to the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations for Implementing the National Environmental Policy Act (40 CFR parts 1500–1508), and Department of the Treasury Directive 75–02 (Department of the Treasury Environmental Quality Program), has prepared an Environmental Assessment (EA) related to the acquisition of County roads in Glynn County Georgia. The FLETC proposes to close the portions of each road that are located adjacent to the tract of land that FLETC is proposing to purchase, create cul-de-sacs/entry gates at the terminal points for both roads, and construct a security fence and a perimeter road on the northern and eastern perimeter of the parcel. The public and resource agencies were invited to attend a public meeting held November 7, 2002, and participate in the planning and analysis of the proposed project. At that meeting the FLETC discussed the environmental review process, described the project and alternatives under consideration, discussed the scope of environmental issues to be investigated in accordance with the requirements of NEPA, and answered questions from attendees.

An EA document has been prepared in accordance with NEPA and Department of the Treasury requirements, addressing the various project alternatives, their potential environmental impacts, and issues raised during the November 7, 2002, public meeting. This document will be available for public review and comment from December 16, 2002, until January 16, 2003, at the following locations:

1. Three Rivers Regional Library, 2400 Reynolds Street, Brunswick, Georgia 31520, 912–267–1212.

2. Department of the Treasury, Library, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Contact Bill McGovern at 202–622–0043.

Significant comments received from the public and agencies during the review period will be addressed in the EA and included in an appendix. Should the FLETC determine, based on the public's comments and the information presented in the EA, that the impacts of the acquisition of the county roads, the proposed closing of portions of the roads that are adjacent to the tract of land that FLETC is proposing to purchase, the construction of cul-de-sacs/entry gates at the terminal points for both roads, and construction of a security fence and a perimeter road on the northern and eastern perimeter of the parcel will not have a significant environmental impact, it will prepare a Finding of No Significant Impact (FONSI) for publication in the **Federal Register** and in a newspaper in general circulation at the project location. Should significant environmental impacts be determined to exist due to the project, the FLETC will proceed with the preparation of an Environmental Impact Statement, per the requirements of NEPA, the Council on Environmental Quality, and its own environmental policies and procedures.

DATES: Written comments concerning the EA should be received on or before January 16, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Ms. Susan Shaw, NEPA Coordinator/Project Manager, Building T–726 Glynco, GA 31524.

FOR FURTHER INFORMATION CONTACT: Susan Shaw, NEPA Coordinator/Project Manager, FLETC, at (912) 261–4557. Ms. Shaw's e-mail address is *sshaw@fletc.treas.gov*.

SUPPLEMENTARY INFORMATION: The FLETC has a mission of providing high quality, cost-effective training of federal law enforcement personnel. The acquisition of portions of the County roads and the construction of the security fence and perimeter road will allow the FLETC to maintain a secure campus setting. The FLETC facility is located approximately three miles north of Brunswick in Glynn County, GA. The project site is situated at the intersection of Sidney Lanier Drive and Etheridge Drive adjacent to the Sossner Tap & Tool Corporation located at 2100 Sidney Lanier Drive, Brunswick, GA, in the Glynco-McBride industrial Park.

Authority: The Council on Environmental Quality's National Environmental Policy Act, 40 CFR parts 1500 *et seq.*

Dated: December 10, 2002.

Paul Magalski,

Assistant Director, Office of Compliance, Federal Law Enforcement Training Center.

[FR Doc. 02–31622 Filed 12–13–02; 8:45 am]

BILLING CODE 4810–32–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 99–39

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 Revenue Procedure 99–39, Form 941 e-file program.

DATES: Written comments should be received on or before February 14, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 941 e-file Program.

OMB Number: 1545–1557.

Revenue Procedure Number: Revenue Procedure 99–39.

Abstract: Revenue Procedure 99–39 provides the requirements of the Form 941 e-file Program, which combines the Form 941 Electronic Filing (ELF) Program with an on-line filing program that allows a taxpayer to electronically file a Form 941, Employer's Quarterly Federal Tax Return, using a personal computer, modem, and commercial tax preparation software.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 390,200.

Estimated Time Per Respondent: 37 minutes.

Estimated Total Annual Burden Hours: 238,863.

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: December 4, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–31615 Filed 12–13–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–7–88]

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–7–88, (TD 8379), Excise Tax Relating to Gain or Other Income Realized By Any Person on Receipt of Greenmail (§§ 155.6011–1, 155.6001–1, 155.6081–1, and 155.6161–1).

DATES: Written comments should be received on or before February 14, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665 or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Excise Tax Relating to Gain or Other Income Realized By Any Person on Receipt of Greenmail.

OMB Number: 1545–1049.

Regulation Project Number: IA–7–88.

Abstract: The regulations provide rules relating to the manner and method of reporting and paying the nondeductible 50 percent excise tax imposed by section 5881 of the Internal Revenue Code with respect to the receipt of greenmail. The reporting requirements will be used to verify that the excise tax imposed under section 5881 is properly reported and timely paid.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 4.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2.

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: December 5, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–31616 Filed 12–13–02; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 67, No. 241
Monday, December 16, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

Correction

In notice document 02–30902 appearing on page 72646 in the issue of Friday, December 6, 2002, make the following correction:

On page 72646, in the second column, under the heading **SUMMARY**, in the sixth line, ''USA–CDA–2002–1904–09'' should read, ''USA–MEX–2002–1904–10''.

[FR Doc. C2–30902 Filed 12–13–02; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1200

RIN 3095–AB12

Official Seals

Correction

In rule document 02–30766 beginning on page 72101 in the issue of Wednesday, December 4, 2002, make the following correction:

§ 1200.2 [Corrected]

On page 72101, in the third column, in § 1200.2, in the first paragraph, in the second line, ''30'' should read, ''3''.

[FR Doc. C2–30766 Filed 12–13–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service

Proposed Collection of Information: Resolution Authorizing Execution of Depositary, Financial Agency, and Collateral Agreement; and Depositary, Financial Agency, and Collateral Agreement

Correction

In notice document 02–30016 appearing on page 71010 in the issue of Wednesday, November 27, 2002, make the following correction:

On page 71010, in the third column, in the second line, ''The'' should read, ''They''.

[FR Doc. C2–30016 Filed 12–13–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,

December 16, 2002

Part II

Department of Justice

Immigration and Naturalization Service

Registration of Certain Nonimmigrant Aliens From Designated Countries; Notice

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[AG Order No. 2636–2002]

Registration of Certain Nonimmigrant Aliens from Designated Countries

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This Notice requires certain nonimmigrant aliens to appear before, register with, and provide requested information to the Immigration and Naturalization Service on or before February 21, 2003. It applies to certain nonimmigrant aliens from one of the countries designated in this Notice who were last admitted to the United States on or before September 30, 2002, and who will remain in the United States after February 21, 2003. The specific requirements are set forth in the Notice. This is the third such Notice that the Attorney General has published. This Notice is applicable to certain nationals and citizens of Armenia, Pakistan, and Saudi Arabia who entered the United States on or before September 30, 2002, and who will remain in the United States after February 21, 2003. Aliens described in this Notice are required to register and provide additional information to the Immigration and Naturalization Service between January 13, 2003, and February 21, 2003, inclusive.

EFFECTIVE DATES: This Notice is effective on January 13, 2003. Aliens described in this Notice are required to register and provide additional information to the Immigration and Naturalization Service on or before February 21, 2003.

FOR FURTHER INFORMATION CONTACT: Dan Brown, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Room 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION: Section 265(b) of the Immigration and Nationality Act (''Act''), as amended, 8 U.S.C. 1305(b), provides that

> [t]he Attorney General may in his discretion, upon ten days notice, require the natives of any one or more foreign states, or any class or group thereof, who are within the United States and who are required to be registered under this subchapter, to notify the Attorney General of their current addresses and furnish such additional information as the Attorney General may require.

Additionally, section 263(a) of the Act, 8 U.S.C. 1303(a), provides that the Attorney General may ''prescribe special regulations and forms for the registration and fingerprinting of * * * aliens of any other class not lawfully admitted to the United States for permanent residence.'' The Attorney General has previously exercised his authority under these and other provisions of the Act to establish special registration procedures under 8 CFR 264.1(f). 67 FR 52584 (Aug. 12, 2002). These requirements are known as the National Security Entry—Exit Registration System (''NSEERS''). In accordance with the authority set forth in 8 CFR 264.1(f)(4), the Attorney General has determined that certain nonimmigrant aliens specified in this Notice shall be registered and required to provide specific information. The Attorney General has the sole discretion to make this determination. Under this Notice certain nonimmigrant nationals or citizens of Armenia, Pakistan, and Saudi Arabia are required to appear at an Immigration and Naturalization Service (''Service'') office to register under NSEERS and provide additional information. This is the third Notice that the Attorney General has published. *See* 67 FR 67766 (Nov. 6, 2002); 67 FR 70526 (Nov. 22, 2002). Previous Notices have applied to certain nonimmigrant nationals or citizens of Afghanistan, Algeria, Bahrain, Eritrea, Iran, Iraq, Lebanon, Libya, Morocco, North Korea, Oman, Qatar, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

In light of recent events, and based on intelligence information available to the Attorney General, the Attorney General has determined that the aliens described in paragraph (a) of this Notice must appear before the Service and provide certain information. This Notice applies only to certain nonimmigrant aliens from one of the countries designated in this Notice who were last admitted to the United States on or before September 30, 2002, and who will remain after February 21, 2003. Based on intelligence information available to the Attorney General, the Attorney General has determined that registering all nonimmigrant aliens from the covered countries would not enhance national security. Moreover, the Attorney General has determined that it would not be administratively feasible at the present time to register all of the nonimmigrants from the specific countries covered by this Notice, and that the delay occasioned by registering all nonimmigrants from the countries covered by this Notice would jeopardize the national security. Accordingly, the Attorney General has determined that only males aged 16 years or older need to be registered at this time. Furthermore, the Attorney General has determined that an alien who has an application for asylum pending on the date of publication of this Notice has already provided sufficient information in the application for asylum, along with fingerprints, to warrant exclusion from this Notice.

Although section 265(b) of the Act, 8 U.S.C. 1305(b), provides a minimum period of 10 days notice for covered aliens to provide their current address and other required information, this Notice allows an alien described by the Notice a period of more than 30 days to register. The Attorney General has determined that such additional time to register is in the best interests of the United States and has extended this time to register solely as a matter of discretion.

Finally, until further notice, once enrolled within NSEERS by registration under this Notice, an alien described in paragraph (a) of this Notice is required to register annually with the Service. All aliens described in paragraph (a) shall comply with all other provisions of 8 CFR 264.1(f)(5) through (f)(9).

A willful failure to comply with the requirements of this Notice constitutes a failure to maintain nonimmigrant status under section 237(a)(1)(C)(i) of the Act, 8 U.S.C. 1227(a)(1)(C)(i). See 8 CFR 214.1(f). Pursuant to section 237(a)(3)(A) of the Act, 8 U.S.C. 1227(a)(3)(A), an alien who fails to comply with the provisions of this Notice is deportable, unless the alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful. Finally, if an alien subject to this Notice fails, without good cause, to comply with the requirement in 8 CFR 264.1(f)(8) that the alien must report to an inspecting officer of the Service when departing the United States, the alien shall thereafter be presumed to be inadmissible under, but not limited to, section 212(a)(3)(A)(ii) of the Act, 8 U.S.C. 1182(a)(3)(A)(ii). See 8 CFR 264.1(f)(8).

Notice of Requirements for Registration of Certain Nonimmigrant Aliens From Designated Countries

Pursuant to sections 261 through 266 of the Immigration and Nationality Act (''Act''), as amended, 8 U.S.C. 1302 through 1306, and particularly sections 263(a) and 265(b) of the Act, 8 U.S.C. 1303(a) and 8 U.S.C. 1305(b), and 8 CFR 264.1(f), I hereby order as follows:

(a) *Scope.* Except as provided in paragraph (g), an alien is required to register pursuant to this Notice if the alien:

(1) Is a male who was born on or before January 13, 1987;

(2) Is a national or citizen of Armenia, Pakistan, or Saudi Arabia, who was inspected by the Immigration and Naturalization Service and was last admitted to the United States as a nonimmigrant on or before September 30, 2002; and

(3) Will remain in the United States after February 21, 2003.

(b) *Dual citizens.* This Notice is applicable to any alien who is a national or citizen of a designated country, notwithstanding any dual nationality or citizenship.

(c) *Requirement to appear before an immigration officer.* All aliens described in paragraph (a) shall, between January 13, 2003, and February 21, 2003, inclusive, appear before an immigration officer at any of the locations listed in the appendix to this Notice.

(d) *Information to be provided.* All aliens described in paragraph (a) shall:

(1) Answer questions under oath before an immigration officer, which answers shall be recorded by the immigration officer;

(2) Present to such immigration officer:

(i) The alien's travel documents, including passport and the Form I–94 issued upon admission, and any other forms of government-issued identification;

(ii) Proof of residence, such as, but not limited to, title to land or a lease or a rental agreement, and, if applicable, proof of matriculation at an educational institution, and, if applicable, proof of employment; and

(iii) Such other information as is requested by the immigration officer; and

(3) Shall be fingerprinted and photographed by the immigration officer.

(e) Annual reporting obligations. All aliens described in paragraph

(a) shall appear, within 10 days of each anniversary of the date on which they were registered under this Notice, before an immigration officer at any of the locations listed in the appendix to this Notice and answer questions under oath. All aliens described in paragraph (a) shall comply with all other provisions of 8 CFR 264.1(f)(5)–(9).

(f) *Notice of Change of Address.* All aliens described in paragraph (a) shall advise the Immigration and Naturalization Service, through the filing of Form AR–11, of any change of address within 10 days of such change of address. If an alien fails to notify the Immigration and Naturalization Service in writing of a change of address and the new address, as required by section 265(a) of the Act, 8 U.S.C. 1305(a), the alien may be subject to prosecution under section 266(b) of the Act, 8 U.S.C. 1306(b), and may be deportable as provided in section 237(a)(3)(A) of the Act, 8 U.S.C. 1227(a)(3)(A). If it becomes necessary to place the alien in removal proceedings, the Immigration and Naturalization Service may use the most recent address provided by the alien for service of the Notice to Appear.

(g) *Inapplicability.* The requirements of this Notice do not apply to any alien who:

(1) Is presently in a nonimmigrant classification under section 101(a)(15)(A) or 101(a)(15)(G) of the Act, 8 U.S.C. 1101(a)(15)(A) or 8 U.S.C. 1101(a)(15)(G);

(2) Is lawfully admitted to the United States for permanent residence; or

(3) Has an application for asylum pending on December 16, 2002, or has been granted asylum, under section 208 of the Act, 8 U.S.C. 1158.

Dated: December 12, 2002.

John Ashcroft,

Attorney General.

Appendix: Immigration and Naturalization Service Offices for Registration of Certain Nonimmigrants Pursuant to Notice of December 16, 2002

ALASKA—Anchorage, 620 East 10th Avenue, Anchorage, Alaska 99501
ARIZONA—Phoenix, 2035 North Central Avenue, Phoenix, Arizona 85004
ARIZONA—Tucson, 6431 South Country Club Road, Tucson, Arizona 85706–5907
ARKANSAS—Fort Smith, 4991 Old Greenwood Road, Fort Smith, Arkansas 72903
CALIFORNIA—Fresno, 865 Fulton Mall, Fresno, California 93721
CALIFORNIA—Los Angeles, 300 North Los Angeles Street, Room 2024, Los Angeles, California 90012
CALIFORNIA—Sacramento, 650 Capitol Mall, Sacramento, CA 95814
CALIFORNIA—San Bernardino, 655 West Rialto Avenue, San Bernardino, California 92410
CALIFORNIA—San Diego, 880 Front Street, Suite 1209, San Diego, California 92101
CALIFORNIA—San Francisco, 444 Washington Street, San Francisco, California 94111
CALIFORNIA—San Jose, 1887 Monterey Road, San Jose, California 95112
CALIFORNIA—Santa Ana, 34 Civic Center Plaza, Santa Ana, California 92701
COLORADO—Denver, 4730 Paris Street, Denver, CO 80239
CONNECTICUT—Hartford, 450 Main Street, 4th Floor, Hartford, Connecticut 06103
FLORIDA—Jacksonville, 4121 Southpoint Boulevard, Jacksonville, Florida 32216
FLORIDA—Miami, 7880 Biscayne Boulevard, Miami, Florida 33138
FLORIDA—Orlando, 9403 Tradeport Drive Orlando, Florida 32827
FLORIDA—Tampa, 5524 West Cypress Street, Tampa, Florida 33607–1708
FLORIDA—West Palm Beach, 326 Fern Street, Riviera Beach, Florida 33401
GEORGIA—Atlanta, 77 Forsyth Street, SW., Atlanta, Georgia 30303
GUAM—Agana, Sirena Plaza, Suite 100, 108 Hernan Cortez Avenue, Hagatna, Guam 96910
HAWAII—Honolulu, 595 Ala Moana Boulevard, Honolulu, Hawaii 96813
IDAHO—Boise, 1185 South Vinnell Way Boise, Idaho 83709
ILLINOIS—Chicago, 230 South Dearborn, 2nd Floor Chicago, Illinois 60604
INDIANA—Indianapolis, 950 N. Meridian Street, Room 400, Indianapolis, Indiana 46204
IOWA—Des Moines, 210 Walnut Street, Room 369, Des Moines, Iowa 50309
KANSAS—Wichita, 271 West 3rd Street North, Suite 1050, Wichita, Kansas 67202–1212
KENTUCKY—Louisville, 601 West Broadway, Room 390, Louisville, Kentucky 40202
LOUISIANA—New Orleans, 701 Loyola Avenue, New Orleans, Louisiana 70113
MAINE—Portland, 176 Gannet Drive, South Portland, Maine 04106
MARYLAND—Baltimore, 31 Hopkins Place, Baltimore, Maryland 21201
MASSACHUSETTS—Boston, Government Center, JFK Federal Building, Boston, Massachusetts 02203
MICHIGAN—Detroit 333, Mount Elliot Street, Detroit, Michigan 48207–4381
MINNESOTA—Minneapolis, 2901 Metro Drive, Suite 100, Bloomington, Minnesota 55425
MISSOURI—Kansas City, 9747 Northwest Conant Avenue, Kansas City, Missouri 64153
MISSOURI—St. Louis, 1222 Spruce Street, St. Louis, Missouri 63103
MONTANA—Helena, 2800 Skyway Drive, Helena, Montana 59601
NEBRASKA—Omaha, 3736 South 132nd Street, Omaha, Nebraska 68144
NEVADA—Las Vegas, 3373 Pepper Lane, Las Vegas, NV 89120–2739
NEVADA—Reno, 1352 Corporate Boulevard, Reno, Nevada 85902
NEW HAMPSHIRE—Manchester, 803 Canal Street, Manchester, New Hampshire 03101
NEW JERSEY—Cherry Hill, 1886 Greentree Road, Cherry Hill, New Jersey 08003
NEW JERSEY—Newark, 970 Broad Street, Newark, New Jersey 07102
NEW MEXICO—Albuquerque, 1720 Randolph Road SE, Albuquerque, New Mexico 87106
NEW YORK—Albany, 1086 Troy-Schenectady Road, Latham, New York 12110
NEW YORK—Buffalo, 130 Delaware Avenue, Buffalo, New York 14202
NEW YORK—New York City, 26 Federal Plaza, New York, New York 10278
NORTH CAROLINA—Charlotte, 210 E. Woodlawn Road, Building 6, Suite 138, Charlotte, North Carolina 28217
OHIO—Cincinnati, 550 Main Street, Room 4001, Cincinnati, Ohio 45202
OHIO—Cleveland, 1240 East Ninth Street, Cleveland, Ohio 44199
OHIO—Columbus, 50 West Broad Street, Suite 304D, Columbus, Ohio 43215

OKLAHOMA—Oklahoma City, 4149 Highline Boulevard, Suite 300, Oklahoma City, Oklahoma 73108
OREGON—Portland, 511 Northwest Broadway, Portland, Oregon 97209
PENNSYLVANIA—Philadelphia, 1600 Callowhill Street, Philadelphia, Pennsylvania 19130
PENNSYLVANIA—Pittsburgh, 1000 Liberty Avenue, Room 214, Pittsburgh, Pennsylvania 15222
PUERTO RICO—San Juan, 7 Tabonuco Street, Guaynabo, Puerto Rico 00968
RHODE ISLAND—Providence, 200 Dyer Street, Providence, Rhode Island 02903
ST. CROIX—Christiansted, Sunny Isle Shopping Center, Christiansted, St. Croix, U.S. Virgin Islands 00820
ST. THOMAS—Charlotte Amalie, Nisky Center, Suite 1A, First Floor South, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00802
SOUTH CAROLINA—Charleston, 170 Meeting Street, Fifth Floor, Charleston, South Carolina 29401
SOUTH CAROLINA—Greer, 142–D West Philips Road, Greer, South Carolina 29650
TENNESSEE—Memphis, 1314 Sycamore View Road, Suite 100, Memphis, Tennessee 38134
TEXAS—Dallas, 8101 North Stemmons Freeway, Dallas, Texas 75247
TEXAS—El Paso, 1545 Hawkins Boulevard, El Paso, Texas 79925
TEXAS—Harlingen, 2102 Teege Avenue, Harlingen, Texas 78550–4667
TEXAS—Houston, 126 Northpoint Drive, Houston, Texas 77060
TEXAS—San Antonio, 8904 Fourwinds Drive, San Antonio, Texas 78239
UTAH—Salt Lake City, 5272 South College Drive, #100, Murray, Utah 84123
VERMONT—St. Albans, 64 Gricebrook Road, St. Albans, Vermont 05478
VIRGINIA—Norfolk, 5280 Henneman Drive, Norfolk, Virginia 23513
WASHINGTON, D.C., 4420 North Fairfax Drive, Arlington, Virginia 22203
WASHINGTON—Seattle, 815 Airport Way, South, Seattle, Washington 98134
WASHINGTON—Spokane, 920 W. Riverside Room 691, Spokane, Washington 99201
WASHINGTON—Yakima, 417 E. Chestnut, Yakima, Washington 98901
WEST VIRGINIA—Charleston, 210 Kanawha Boulevard West, Charleston, West Virginia 25302
WISCONSIN—Milwaukee, 310 East Knapp Street, Milwaukee, Wisconsin 53202

For further information relating to this notice and information about local office hours and locations, the public may call the National Customer, Service Center at 1–800–375–5283 or (TTY) 1–800–767–1833, or visit the INS, Web site at *http://www.ins.gov/.*

[FR Doc. 02–31717 Filed 12–13–02; 8:45 am],

BILLING CODE 4410–10–P

Federal Register

Monday,
December 16, 2002

Part III

The President

Executive Order 13279—Equal Protection of the Laws for Faith-Based and Community Organizations

Executive Order 13280—Responsibilities of the Department of Agriculture and the Agency for International Development With Respect to Faith-Based and Community Initiatives

Federal Register
Vol. 67, No. 241
Monday, December 16, 2002

Presidential Documents

Title 3—

The President

Executive Order 13279 of December 12, 2002

Equal Protection of the Laws for Faith-Based and Community Organizations

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 121(a) of title 40, United States Code, and section 301 of title 3, United States Code, and in order to guide Federal agencies in formulating and developing policies with implications for faith-based organizations and other community organizations, to ensure equal protection of the laws for faith-based and community organizations, to further the national effort to expand opportunities for, and strengthen the capacity of, faith-based and other community organizations so that they may better meet social needs in America's communities, and to ensure the economical and efficient administration and completion of Government contracts, it is hereby ordered as follows:

Section 1. *Definitions*. For purposes of this order:

(a) ''Federal financial assistance'' means assistance that non-Federal entities receive or administer in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, food commodities, direct appropriations, or other assistance, but does not include a tax credit, deduction, or exemption.

(b) ''Social service program'' means a program that is administered by the Federal Government, or by a State or local government using Federal financial assistance, and that provides services directed at reducing poverty, improving opportunities for low-income children, revitalizing low-income communities, empowering low-income families and low-income individuals to become self-sufficient, or otherwise helping people in need. Such programs include, but are not limited to, the following:

(i) child care services, protective services for children and adults, services for children and adults in foster care, adoption services, services related to the management and maintenance of the home, day care services for adults, and services to meet the special needs of children, older individuals, and individuals with disabilities (including physical, mental, or emotional disabilities);

(ii) transportation services;

(iii) job training and related services, and employment services;

(iv) information, referral, and counseling services;

(v) the preparation and delivery of meals and services related to soup kitchens or food banks;

(vi) health support services;

(vii) literacy and mentoring programs;

(viii) services for the prevention and treatment of juvenile delinquency and substance abuse, services for the prevention of crime and the provision of assistance to the victims and the families of criminal offenders, and services related to intervention in, and prevention of, domestic violence; and

(ix) services related to the provision of assistance for housing under Federal law.

(c) ''Policies that have implications for faith-based and community organizations'' refers to all policies, programs, and regulations, including official guidance and internal agency procedures, that have significant effects on faith-based organizations participating in or seeking to participate in social service programs supported with Federal financial assistance.

(d) ''Agency'' means a department or agency in the executive branch.

(e) ''Specified agency heads'' mean the Attorney General, the Secretaries of Agriculture, Education, Health and Human Services, Housing and Urban Development, and Labor, and the Administrator of the Agency for International Development.

Sec. 2. *Fundamental Principles and Policymaking Criteria.*

In formulating and implementing policies that have implications for faith-based and community organizations, agencies that administer social service programs supported with Federal financial assistance shall, to the extent permitted by law, be guided by the following fundamental principles:

(a) Federal financial assistance for social service programs should be distributed in the most effective and efficient manner possible;

(b) The Nation's social service capacity will benefit if all eligible organizations, including faith-based and other community organizations, are able to compete on an equal footing for Federal financial assistance used to support social service programs;

(c) No organization should be discriminated against on the basis of religion or religious belief in the administration or distribution of Federal financial assistance under social service programs;

(d) All organizations that receive Federal financial assistance under social services programs should be prohibited from discriminating against beneficiaries or potential beneficiaries of the social services programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with Federal financial assistance, and in their outreach activities related to such services, should not be allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice;

(e) The Federal Government must implement Federal programs in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment to the Constitution. Therefore, organizations that engage in inherently religious activities, such as worship, religious instruction, and proselytization, must offer those services separately in time or location from any programs or services supported with direct Federal financial assistance, and participation in any such inherently religious activities must be voluntary for the beneficiaries of the social service program supported with such Federal financial assistance; and

(f) Consistent with the Free Exercise Clause and the Free Speech Clause of the Constitution, faith-based organizations should be eligible to compete for Federal financial assistance used to support social service programs and to participate fully in the social service programs supported with Federal financial assistance without impairing their independence, autonomy, expression, or religious character. Accordingly, a faith-based organization that applies for or participates in a social service program supported with Federal financial assistance may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct Federal financial assistance to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations that receive Federal financial assistance may use their facilities to provide social services supported with Federal financial assistance, without removing or altering religious art, icons, scriptures, or other symbols from these facilities. In addition, a faith-based organization that applies for or participates in a social service program supported with Federal financial assistance may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other chartering or governing documents.

Sec. 3. *Agency Implementation.*

(a) Specified agency heads shall, in coordination with the White House Office of Faith-Based and Community Initiatives (White House OFBCI), review and evaluate existing policies that have implications for faith-based and community organizations in order to assess the consistency of such policies with the fundamental principles and policymaking criteria articulated in section 2 of this order.

(b) Specified agency heads shall ensure that all policies that have implications for faith-based and community organizations are consistent with the fundamental principles and policymaking criteria articulated in section 2 of this order. Therefore, specified agency heads shall, to the extent permitted by law:

(i) amend all such existing policies of their respective agencies to ensure that they are consistent with the fundamental principles and policymaking criteria articulated in section 2 of this order;

(ii) where appropriate, implement new policies for their respective agencies that are consistent with and necessary to further the fundamental principles and policymaking criteria set forth in section 2 of this order; and

(iii) implement new policies that are necessary to ensure that their respective agencies collect data regarding the participation of faith-based and community organizations in social service programs that receive Federal financial assistance.

(c) Within 90 days after the date of this order, each specified agency head shall report to the President, through the Director of the White House OFBCI, the actions it proposes to undertake to accomplish the activities set forth in sections 3(a) and (b) of this order.

Sec. 4. *Amendment of Executive Order 11246.*

Pursuant to section 121(a) of title 40, United States Code, and section 301 of title 3, United States Code, and in order to further the strong Federal interest in ensuring that the cost and progress of Federal procurement contracts are not adversely affected by an artificial restriction of the labor pool caused by the unwarranted exclusion of faith-based organizations from such contracts, section 204 of Executive Order 11246 of September 24, 1965, as amended, is hereby further amended to read as follows:

"SEC. 204 (a) The Secretary of Labor may, when the Secretary deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order.

(b) The Secretary of Labor may, by rule or regulation, exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier.

(c) Section 202 of this Order shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in this Order.

(d) The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor that are in all respects separate and distinct from activities of the contractor related to the performance of the contract: provided, that such an exemption will not interfere with or impede the effectuation of the purposes of this Order: and provided further, that in the absence of such an exemption all facilities shall be covered by the provisions of this Order.''

Sec. 5. *General Provisions*.

(a) This order supplements but does not supersede the requirements contained in Executive Orders 13198 and 13199 of January 29, 2001.

(b) The agencies shall coordinate with the White House OFBCI concerning the implementation of this order.

(c) Nothing in this order shall be construed to require an agency to take any action that would impair the conduct of foreign affairs or the national security.

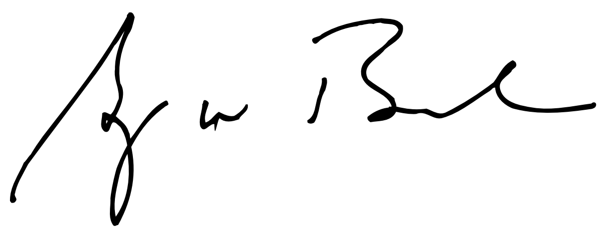
Sec. 6. *Responsibilities of Executive Departments and Agencies*. All executive departments and agencies (agencies) shall:

(a) designate an agency employee to serve as the liaison and point of contact with the White House OFBCI; and

(b) cooperate with the White House OFBCI and provide such information, support, and assistance to the White House OFBCI as it may request, to the extent permitted by law.

Sec. 7. *Judicial Review*.

This order is intended only to improve the internal management of the executive branch, and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, or entities, its officers, employees or agents, or any person.



THE WHITE HOUSE,
December 12, 2002.

[FR Doc. 02–31831
Filed 12–13–02; 12:09 pm]
Billing code 3195–01–P

Presidential Documents

Executive Order 13280 of December 12, 2002

Responsibilities of the Department of Agriculture and the Agency for International Development With Respect to Faith-Based and Community Initiatives

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to help the Federal Government coordinate a national effort to expand opportunities for faith-based and other community organizations and to strengthen their capacity to better meet social needs in America's communities, it is hereby ordered as follows:

Section 1. *Establishment of Centers for Faith-Based and Community Initiatives at the Department of Agriculture and the Agency for International Development.* (a) The Secretary of Agriculture and the Administrator of the Agency for International Development shall each establish within their respective agencies a Center for Faith-Based and Community Initiatives (Center).

(b) Each of these Centers shall be supervised by a Director, appointed by the agency head in consultation with the White House Office of Faith-Based and Community Initiatives (White House OFBCI).

(c) Each agency shall provide its Center with appropriate staff, administrative support, and other resources to meet its responsibilities under this order.

(d) Each Center shall begin operations no later than 45 days from the date of this order.

Sec. 2. *Purpose of Executive Branch Centers for Faith-Based and Community Initiatives.* The purpose of the agency Centers will be to coordinate agency efforts to eliminate regulatory, contracting, and other programmatic obstacles to the participation of faith-based and other community organizations in the provision of social services.

Sec. 3. *Responsibilities of the Centers for Faith-Based and Community Initiatives.* Each Center shall, to the extent permitted by law:

(a) conduct, in coordination with the White House OFBCI, an agency-wide audit to identify all existing barriers to the participation of faith-based and other community organizations in the delivery of social services by the agency, including but not limited to regulations, rules, orders, procurement, and other internal policies and practices, and outreach activities that either facially discriminate against or otherwise discourage or disadvantage the participation of faith-based and other community organizations in Federal programs;

(b) coordinate a comprehensive agency effort to incorporate faith-based and other community organizations in agency programs and initiatives to the greatest extent possible;

(c) propose initiatives to remove barriers identified pursuant to section 3(a) of this order, including but not limited to reform of regulations, procurement, and other internal policies and practices, and outreach activities;

(d) propose the development of innovative pilot and demonstration programs to increase the participation of faith- based and other community organizations in Federal as well as State and local initiatives; and

(e) develop and coordinate agency outreach efforts to disseminate information more effectively to faith-based and other community organizations with respect to programming changes, contracting opportunities, and other agency initiatives, including but not limited to Web and Internet resources.

Sec. 4. *Reporting Requirements.*

(a) *Report.* Not later than 180 days from the date of this order and annually thereafter, each of the two Centers described in section 1 of this order shall prepare and submit a report to the White House OFBCI.

(b) *Contents.* The report shall include a description of the agency's efforts in carrying out its responsibilities under this order, including but not limited to:

(i) a comprehensive analysis of the barriers to the full participation of faith-based and other community organizations in the delivery of social services identified pursuant to section 3(a) of this order and the proposed strategies to eliminate those barriers; and

(ii) a summary of the technical assistance and other information that will be available to faith-based and other community organizations regarding the program activities of the agency and the preparation of applications or proposals for grants, cooperative agreements, contracts, and procurement.

(c) *Performance Indicators.* The first report, filed 180 days after the date of this order, shall include annual performance indicators and measurable objectives for agency action. Each report filed thereafter shall measure the agency's performance against the objectives set forth in the initial report.

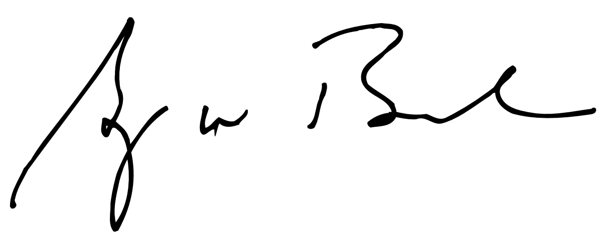
Sec. 5. *Responsibilities of the Secretary of Agriculture and the Administrator of the Agency for International Development.* The Secretary and the Administrator shall:

(a) designate an employee within their respective agencies to serve as the liaison and point of contact with the White House OFBCI; and

(b) cooperate with the White House OFBCI and provide such information, support, and assistance to the White House OFBCI as it may request, to the extent permitted by law.

Sec. 6. *Administration and Judicial Review.* (a) The agency actions directed by this executive order shall be carried out subject to the availability of appropriations and to the extent permitted by law.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, or entities, its officers, employees or agents, or any other person.



THE WHITE HOUSE,
December 12, 2002.

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S. 1240/P.L. 107–329

To provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, and for other purposes. (Dec. 6, 2002; 116 Stat. 2815)

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*29–End	(869–048–00196–4)	38.00	[9]Oct. 1, 2002
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

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[7] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2001, through July 1, 2002. The CFR volume issued as of July 1, 2001 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2002. The CFR volume issued as of October 1, 2001 should be retained.