3–28–01 Wednesday
Vol. 66 No. 60 Mar. 28, 2001
Pages 16839–17072

Federal Register

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WASHINGTON, DC

WHEN: Tuesday, April 17, 2001 at 9:00 a.m.

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

RESERVATIONS: 202–523–4538

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. FV01–955–1 FR]

Vidalia Onions Grown in Georgia; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Vidalia Onion Committee (Committee) for the 2001 and subsequent fiscal periods from $0.10 to $0.12 per 50-pound bag of Vidalia onions handled. The Committee locally administers the marketing order, which regulates the handling of Vidalia onions grown in Georgia. Authorization to assess Vidalia onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: March 29, 2001.

FOR FURTHER INFORMATION CONTACT: William Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883–2276; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 955, (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Vidalia onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Vidalia onions beginning on January 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule increases the assessment rate established for the Committee for the 2001 and subsequent fiscal periods from $0.10 to $0.12 per 50-pound bag or equivalent of Vidalia onions.

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

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on November 16, 2000, and discussed 2001 expenditures of $411,102 and an increased assessment rate of $0.12 per 50-pound bag or equivalent of onions. The Committee held a telephone meeting on November 27, 2000, and recommended this budget and assessment rate change in a vote of 5 in favor and 3 opposed. The three members opposed objected to increasing the assessment rate following a season with reduced returns.

The recommended assessment rate of $0.12 is $0.02 higher than the rate previously in effect. Last year, budgeted expenditures were $421,600 and the assessment rate was $0.10. The Committee projected 4.2 million assessable 50-pound bags of Vidalia onions for the 2000 fiscal period. The actual quantity of assessable onions was closer to 3,908,000 50-pound bags. Because of this shortfall, the Committee had to use its authorized reserve funds to cover approved expenses. The Committee believes that fewer acres of Vidalia onions will be planted in 2001 because of lower grower returns and high yield losses last season. The quantity of assessable Vidalia Onions for the 2001 fiscal period is projected to

be less than in previous seasons. Therefore, the increase in the assessment rate is needed to cover expenses and to replenish the reserve fund.

The major expenditures recommended by the Committee for the 2001 fiscal period include $135,227 for administrative costs, $37,850 for compliance activities, $188,025 for promotional activities, and $50,000 for research projects. Budgeted expenses for these items in fiscal year 2000 were $135,127, $31,800, $175,000, and $47,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Vidalia onions. Vidalia onion shipments for the year are estimated at 3.6 million 50-pound bags and should provide $432,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Income in excess of expenses will be added to the Committee's reserve fund. Funds in the reserve (currently around $77,000) will be kept within the maximum permitted by the order (about three fiscal period s expenses; § 955.44).

The Committee vote was 5 votes in support of the increase and 3 votes opposed. Those casting negative votes stated they were opposed because of the relatively poor grower returns received in fiscal year 2000 and the need for fiscal conservatism. The majority of the Committee members pointed out the need for funds to cover the estimated expenses for 2001, to build up its operating reserve, and to pay any loans that might be needed to cover expenses until assessment monies are received in the spring of 2001. Also, the positive voters pointed out that without the increase, there would be limited funds for promotion and research which was the reason for instituting the marketing order in the first place. Therefore, the Committee recommended the increase in the assessment rate.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 133 producers of Vidalia onions in the production area and approximately 102 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts of less than $5,000,000.

Based on the Georgia Agricultural Statistical Service and Committee data, the average annual f.o.b. price for fresh Vidalia onions during the 2000 season was $13.00 per 50-pound bag for all shipments, and total shipments for the 2000 season were around 3.9 million bags of Vidalia onions. Many Vidalia onion handlers ship other vegetable products, which are not included in the Committee data but would contribute further to handler receipts.

Using the available data, about 97 percent of Vidalia onion handlers could be considered small businesses under the SBA definition. The majority of Vidalia onion producers and handlers may be classified as small entities.

This final rule increases the assessment rate established for the Committee and collected from handlers for the 2001 and subsequent fiscal periods from $0.10 to $0.12 per 50-pound bag of Vidalia onions. The Committee recommended 2001 expenditures of $411,102 and an assessment rate of $0.12 per 50-pound bag or equivalent. The assessment rate of $0.12 is $0.02 higher than the 2000 rate. The quantity of assessable Vidalia onions for the 2001 fiscal period is estimated at 3.6 million 50-pound bags. Thus, the $0.12 rate should provide $432,000 in assessment income. Income derived from handler assessments, along with interest income, should be adequate to cover budgeted expenses and any excess funds will be placed in the reserve fund.

The major expenditures recommended by the Committee for 2001 fiscal period include $135,227 for administrative costs, $37,850 for compliance activities, $188,025 for promotional activities, and $50,000 for research projects. Budgeted expenses for these items in fiscal year 2000 were $135,127, $31,800, $175,000, and $47,000, respectively.

The Committee projected 4.2 million assessable 50-pound bags of Vidalia onions for the 2000 fiscal period. The actual quantity of assessable Vidalia onions was closer to 3.9 million 50-pound bags. Because of this shortfall, the Committee had to use about $20,000 from its authorized reserve fund to cover approved expenses. The quantity of assessable Vidalia onions for the 2001 fiscal period is projected to be 3.6 million 50-pound bags, which is less than in previous seasons. To cover necessary expenses and to bring the reserve fund back to an acceptable level (about $50,000), the Committee voted to recommend an increase in its assessment rate.

The Committee reviewed and recommended 2001 expenditures of $411,102, which included increases in expenditures for compliance, promotion, and research. Prior to arriving at this budget, the Committee considered information from various sources, such as the Budget Subcommittee, the Research Subcommittee, and the Advertising and Promotion Subcommittee. Alternative expenditure levels and assessment rates were discussed by these groups and the full Committee, based upon the relative value of various promotion and research projects to the Vidalia onion industry. With assessable onions in 2001 estimated to total 3.6 million 50-pound bags, the assessment rate of $0.10 would be too low to cover estimated expenses and would have left no funds to replenish the reserve fund. The Committee then considered a $0.15 cent assessment rate, but it was not supported. While the majority of the

Committee believed that many growers would support a $0.02 increase in assessments, they did not, however, believe a $0.05 increase in assessments would be supported by a majority of the industry at this time. Therefore, this alternative was rejected.

The assessment rate of $0.12 per 50-pound bag of assessable Vidalia onions was then determined by dividing the total recommended budget by the quantity of assessable Vidalia onions, estimated at 3.6 million 50-pound bags for the 2001 fiscal period. This will generate approximately $22,500 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2001 fiscal period could range between $10.00 and $15.00 per 50-pound bag of Vidalia onions. Therefore, the estimated assessment revenue for the 2001 fiscal period as a percentage of total grower revenue could range between .08 and 1.2 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Vidalia onion production area and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 16, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Vidalia onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

As noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on January 10, 2001 (66 FR 1915). Copies of the proposed rule were also mailed or sent via facsimile to all Vidalia onion handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending February 9, 2001, was provided for interested persons to respond to the proposal. No comments were received.

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

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

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2001 fiscal period began on January 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Vidalia onions handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting. Also, a 30-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 955.209 is revised to read as follows:

§ 955.209 Assessment rate.

On and after January 1, 2001, an assessment rate of $0.12 per 50-pound bag or equivalent is established for Vidalia onions.

Dated: March 21, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–7563 Filed 3–27–01; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611 and 615

RIN 3052–AB91

Organization; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Stock Issuances

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: In this final rule, we amend regulations to allow Farm Credit System (System) service corporations to sell stock to non-System entities, provide adequate disclosures to investors in service corporations, and allow System institutions to issue unlimited amounts of certain classes of equities.

The purpose of our amendments is to provide System institutions additional opportunities to fulfill their borrowers' needs through service corporations and more efficient issuance of equities related to earnings distributions and transfers of capital.

EFFECTIVE DATE: This regulation will become effective 30 days after publication in the **Federal Register** during which either one or both houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or Howard Rubin, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of the final rule are to:

- Increase the flexibility and usefulness of service corporations;
- Provide adequate disclosures to investors in service corporations organized to exercise the authorities granted by title VIII of the Farm Credit Act of 1971, as amended (Act); and
- Provide flexibility for the efficient distribution of a System institution's earnings and timely transfers of capital to a System association.

I. Background

A. Incorporation of Service Corporations

On August 18, 1998, we published a notice in the **Federal Register** that invited System institutions and the public to identify existing regulations and policies that impose unnecessary burdens on the FCS. (See 63 FR 44176, Aug. 18, 1998.) [1] We received comment on § 611.1135, which allows only System banks and associations to own stock in service corporations. Commenters requested that we allow more flexibility in creating and operating service corporations by allowing non-System institutions to own part of the service corporation.

On December 23, 1999, we published proposed amendments to our service corporation and capital bylaw regulations. (*See* 64 FR 72042, Dec. 23, 1999.) We proposed an amendment to § 611.1135 to allow service corporations formed by System banks or associations to issue equity to persons or entities who are not System institutions. We also proposed that non-voting stock may be issued in unlimited amounts as long as the issuance is consistent with the service corporation's bylaws. However, we proposed a limit on the total amount of voting stock that could be issued to non-System persons. We proposed that System institutions hold at least 80 percent of the voting stock of their service corporations at all times.

We also asked for comment on § 611.1137. That regulation allows service corporations to be organized to act as agricultural mortgage marketing facilities by selling loans in the secondary market. It requires that one or more System institutions hold at least 80 percent of the voting stock of their title VIII service corporations at all times. We asked if the 80-percent requirement provides adequate flexibility and usefulness of title VIII service corporations.

The only commenter to our proposal and request for comments for §§ 611.1135 and 611.1137 was the Farm Credit Council (Council), which represents Farm Credit System institutions. The Council supported our proposal to allow the issuance of unlimited amounts of non-voting stock. However, the Council requested that we change our proposed requirement that System institutions hold at least 80 percent of voting stock. The Council suggested that we require System institutions hold at least 51 percent of voting stock to improve opportunities for System institutions to join with non-System entities in service corporation ventures. The Council noted that if FCA had concerns with System institutions losing control, we could require that of the 49 percent of voting stock potentially held by non-System persons, no one person could hold more than 25 percent of total voting stock. Our final rule provides that System institutions own 80 percent or more of a service corporation's voting stock. We continue to believe this percentage requirement helps System institutions in controlling their service corporation yet provides flexibility to make service corporations more useful to Farm Credit System institutions and borrowers.

The Council also requested that we allow a service corporation to generate up to 30 percent of its annual earnings from activities not specifically authorized by the Act. However, section 4.25 of the Act allows service corporations only to perform the functions or services that the System institution organizing the service corporation is authorized to perform.[2] Therefore, if System institutions were not authorized to perform certain activities, their service corporation would also not be authorized.

On December 23, 1999, we also proposed that the service corporations described in §§ 611.1135 and 611.1137 must provide adequate disclosure when issuing stock to persons other than System institutions. (*See* 64 FR 72042, Dec. 23, 1999.) We proposed to apply the disclosure requirements of § 615.5250(c) and (d) to such stock issuances. Final § 611.1137(b) clarifies that the disclosure requirements apply to title VIII service corporations. Additionally, System institutions must determine if disclosures are required by other applicable Federal or state securities laws. While amending §§ 611.1135 and 611.1137, we took the opportunity to write them in plain language. We also rewrote § 611.1136 in plain language. That section covers examination of incorporated service corporations and unincorporated service organizations. We did not receive any comments to our proposed disclosure requirements or plain language revisions.

B. Capitalization Bylaws

Section 615.5220(a)(3) of our regulations requires that System institutions' bylaws specify the number of shares that will be issued for each class of equities.[3] Over the years, several institutions have expressed that this regulation often results in a burden on System institutions because the institution cannot estimate in advance the number of shares that will be issued to an association's funding bank or to borrowers for the purpose of distributing earnings. They point out that since these types of equities do not dilute a System institution's shareholder equity, the bylaws should not be required to specify the number authorized.

Our December 23, 1999, proposal contained an amendment to § 615.5220(a)(3) to allow System institutions to adopt bylaws that provide for issuance of these equities in unlimited amounts. (*See* 64 FR 72042, Dec. 23, 1999.) The proposal provided for the issuance of unlimited amounts of:

- Non-voting stock that an association issues to its funding bank in exchange for the bank transferring capital pursuant to § 615.5171; and
- Equities that institutions provide to borrowers for the sole purpose of distributing an institution's earnings.[4]

The only commenter to this proposal was the Council. The Council requested that we provide a definition for ''earnings.'' We decided not to include a definition for earnings because to do so may be unnecessarily restrictive and burdensome. We believe the term ''earnings'' is sufficiently understood by financial institutions, and therefore the final rule can be applied without difficulty.

C. Technical Change

Currently, § 615.5250(c)(2) regarding disclosure statements for issuance of stock contains a typographical reference error. The final rule corrects the reference to § 615.5250(c)(1) rather than § 615.5250(d)(1).

List of Subjects in 12 CFR Parts 611 and 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, parts 611 and 615 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

[1] On November 18, 1998, we extended the comment period to January 19, 1999. *See* 63 FR 64013 (Nov. 18, 1998).

[2] Those exceptions are that service corporations cannot extend credit or provide insurance services.

[3] There are two current exceptions to this requirement: (1) Non-voting stock that is converted from voting stock after the repayment of a loan; and (2) stock that is required to be purchased when obtaining a loan. In the final rule, we clarify that stock required to be purchased for leases and related services are also exempt.

[4] Our final rule makes a technical change to clarify this sentence.

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.20, 4.21, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2208, 2209, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003, and 1004.

2. Revise subpart I to read as follows:
2

Subpart I—Service Organizations

Sec.
611.1135 Incorporation of service corporations.
611.1136 Regulation and examination of service organizations.
611.1137 Title VIII service corporations.

Subpart I—Service Organizations

§ 611.1135 Incorporation of service corporations.

(a) *What is the process for chartering a service corporation?* A Farm Credit bank or association (you or your) may organize a corporation acting alone or with other Farm Credit banks or associations to perform, for you or on your behalf, any function or service that you are authorized to perform under the Act and Farm Credit Administration (we, us, or our) regulations, with two exceptions. Those exceptions are that your corporation may not extend credit or provide insurance services. To organize a service corporation, you must submit an application to us following the applicable requirements of paragraph (c) of this section. If what you propose in your application meets the requirements of the Act, our regulations, and any other conditions we may impose, we may issue a charter for your service corporation making it a federally chartered instrumentality of the United States. Your service corporation will be subject to examination, supervision, and regulation by us.

(b) *Who may own equities in your service corporation?* All Farm Credit banks and associations are eligible to become stockholders in your service corporation. Your service corporation may also issue non-voting and voting stock to persons that are not Farm Credit institutions, provided that at least 80 percent of the voting stock is at all times held by Farm Credit institutions. For the purposes of this subpart, we define persons as individuals or legal entities organized under the laws of the United States or any state or territory thereof.

(c) *What must be included in your application to form a service corporation?* Your application for a corporate charter must include:

(1) The certified resolution of the board of each organizing bank or association authorizing the incorporation;

(2) A request signed by the president(s) of the organizing bank(s) or association(s) to us to issue a charter, supported by a detailed statement demonstrating the need and the justification for the proposed entity; and

(3) The proposed articles of incorporation addressing, at a minimum, the following:

(i) The name of your corporation;

(ii) The city and state where the principal offices of your corporation are to be located;

(iii) The general purposes for the formation of your corporation;

(iv) The general powers of your corporation;

(v) The procedures for a Farm Credit bank or association or persons that are not Farm Credit institutions to become a stockholder;

(vi) The procedures to adopt and amend your corporation's bylaws;

(vii) The title, par value, voting and other rights, and authorized amount of each class of stock that your corporation will issue and the procedures to retire each class;

(viii) The notice and quorum requirement for a meeting of shareholders, and the vote required for shareholder action on various matters;

(ix) The procedures and shareholder voting requirements for the merger, voluntary liquidation, or dissolution of your corporation or the distribution of corporate assets;

(x) The standards and procedures for the application and distribution of your corporation's earnings; and

(xi) The length of time your corporation will exist.

(4) The proposed bylaws, which must include the provisions required by § 615.5220(b) of this chapter;

(5) A statement of the proposed amounts and sources of capitalization and operating funds;

(6) Any agreements between the organizing banks and associations relating to the organization or the operation of the corporation; and

(7) Any other supporting documentation that we may request.

(d) *What will we do with your application?* If we approve your completed application, we will issue a charter for your service corporation as a corporate body and a federally chartered instrumentality. We may condition the issuance of a charter, including imposing minimum capital requirements, as we deem appropriate. For good cause, we may deny your application.

(e) *Once your service corporation is formed, how are its articles of incorporation amended?* Your service corporation's articles of incorporation may be amended in either of two ways:

(1) The board of directors of the corporation may request that we amend the articles of incorporation by sending us a certified resolution of the board of directors of the service corporation that states the:

(i) Section(s) to be amended;

(ii) Reason(s) for the amendment;

(iii) Language of the articles of incorporation provision, as amended; and

(iv) Requisite shareholder approval has been obtained. The request will be subject to our approval as stated in paragraphs (a) and (c) of this section.

(2) We may at any time make any changes in the articles of incorporation of your service corporation that are necessary and appropriate for the accomplishment of the purposes of the Act.

(f) *When your service corporation issues equities, what are the disclosure requirements?* Your service corporation must provide the disclosures described in § 615.5250(c) and (d) of this chapter.

§ 611.1136 Regulation and examination of service organizations.

(a) *What regulations apply to a service organization?* Because a service organization is formed by banks and associations, it is subject to applicable Farm Credit Administration (we, our) regulations.

(b) *Who examines a service organization?* We examine service organizations.

(c) *What types of service organizations are subject to our regulations and examination?* All incorporated service corporations and unincorporated service organizations formed by banks and associations are subject to our regulations and examination.

§ 611.1137 Title VIII service corporations.

(a) *What is a title VIII service corporation?* A title VIII service corporation is a service corporation organized for the purpose of exercising the authorities granted under title VIII of the Act to act as an agricultural mortgage marketing facility.

(b) *How do I form a title VIII service corporation?* A title VIII service corporation is formed and subject to the same requirements as a service corporation formed under § 611.1135, with one exception. The Federal Agricultural Mortgage Corporation or its

affiliates may not form or own stock in a title VIII service corporation.

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

3. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

Subpart I—Issuances of Equities

4. Amend § 615.5220 by revising paragraph (a)(3) to read as follows:

§ 615.5220 Capitalization bylaws.

* * * * *

(a) * * *

(3) The number of shares and par value of equities authorized to be issued for each class of equities. However, the bylaws need not state a number or value limit for these equities:

(i) Equities that are required to be purchased as a condition of obtaining a loan, lease, or related service.

(ii) Non-voting stock resulting from the conversion of voting stock due to repayment of a loan.

(iii) Non-voting equities that are issued to an association's funding bank in conjunction with any agreement for a transfer of capital between the association and the bank.

(iv) Equities resulting from the distribution of earnings.

* * * * *

§ 615.5250 [Amended]

5. Amend § 615.5250(c)(2) by removing the reference to ''(d)(1)'' and adding in its place, the reference ''(c)(1)''.

Dated: March 21, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–7599 Filed 3–27–01; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–70–AD; Amendment 39–12152; AD 200106–05]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain SOCATA—Groupe AEROSPATIALE (Socata) Model TBM 700 airplanes equipped with Option No. OPT 70–35–001 (gaseous oxygen system). This AD requires you to incorporate a modification that relocates the oil breather vent location. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by this AD are intended to prevent oil from entering the gaseous oxygen system service compartment. Such oil contamination could result in a fire or explosion.

DATES: This AD becomes effective on May 11, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of May 11, 2001.

ADDRESSES: You may get the service information referenced in this AD from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; telephone: (33) (0)5.62.41.73.00; facsimile: (33) (0)5.62.41.76.54; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 8941160; facsimile: (954) 964–4191. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–70–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: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this proposed AD? The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified FAA that an unsafe condition may exist on certain Socata Model TBM 700 airplanes equipped with Option No. OPT 70–35–001 (gaseous oxygen system). The DGAC communicates a report of oil entering the gaseous oxygen system service compartment on a Model TBM 700 airplane. In particular, oil was seeping out of the engine oil pump breather.

What are the consequences if the condition is not corrected? Such oil contamination could result in a fire or explosion.

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 certain Socata Model TBM 700 airplanes equipped with Option No. OPT 70–35–001 (gaseous oxygen system). This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 8, 2001 (66 FR 1271). The NPRM proposed to require you to relocate the oil breather vent location by incorporating Technical Instruction No. OPT70 K076–71 (Modification No. MOD70–119–71) ''OIL PUMP BREATHER''.

Was the public invited to comment? Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's 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 determined that these minor corrections:

—will not change the meaning of the AD; and

—will not add any additional burden upon the public than was already proposed.

Cost Impact

How many airplanes does this AD impact? We estimate that 5 Model TBM 700 airplanes are on the U.S. Registry that could have a gaseous oxygen

system and could be affected by this AD.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the modification:

Labor Cost—4 workhours × $60 = $240
Parts Cost—Socata will provide parts free of charge
Total Cost Per Airplane—$240
Total Cost on U.S. Operators—$240 × 5 = $1,200.

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:

2001–06–05 Socata—Groupe Aerospatiale: Amendment 39–12152; Docket No. 2000–CE–70–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model TBM 700 airplanes, serial numbers 157, 158, 163, 167, and 168, that are:

(1) equipped with Option No. OPT 70–35–001 (gaseous oxygen system); and

(2) certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent oil from entering the gaseous oxygen system service compartment. Such oil contamination could result in a fire or explosion.

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

Actions	Compliance	Procedures
(1) Relocate the oil breather vent location by incorporating Technical Instruction No. OPT 70 K076–71 (Modification No. MOD 70–119–71 ''OIL PUMP BREATHER'').	Within the next 100 hours time-in-service (TIS) after May 11, 2001 (the effective date of this AD).	In accordance with Socata Service Bulletin No. SB 70–085 71, dated October 2000.
(2) Do not incorporate, on any affected airplane, Option No. OPT 70–35–001 (gaseous oxygen system) without simultaneously incorporating the modification required by paragraph (d)(1) of this AD.	As of May 11, 2001 (the effective date of this AD)..	Not applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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 Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; 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 Socata Service Bulletin No. SB 70–085 71, dated October 2000. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023. You can look at 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.

(i) *When does this amendment become effective?* This amendment becomes effective on May 11, 2001.

Note 2: The subject of this AD is addressed in French AD 2000–439(A), dated November 15, 2000.

Issued in Kansas City, Missouri, on March 12, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6787 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–24–AD; Amendment 39–12153; AD 2001–06–06]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Model 172RG Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Cessna Aircraft Company (Cessna) Model 172 airplanes. This AD requires you to inspect the main landing gear pivot assemblies for cracks, replace any cracked main landing gear pivot assemblies, and install new bushings on the pivot assembly shaft. This AD is the result of many service difficulty reports of cracked main landing gear pivot assemblies on the affected airplanes. The actions specified by this AD are intended to detect, correct, and prevent future cracks on the original design landing gear pivots. Cracked main landing gear pivots could fail resulting in gear-up landings or loss of braking.

DATES: This AD becomes effective on May 14, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of May 14, 2001.

ADDRESSES: You may get the service information referenced in this AD from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. You may read this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–4–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: Steven Litke, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4127; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has received many service difficulty reports of failures of pivot assemblies on Cessna Model 172RG airplanes. Failure of the main landing gear pivots has resulted in gear-up landings or loss of braking. The end of the pivot experiences overload stress because of improper bushing clearance. This stress can produce fatigue cracks that spread until the pivot fitting fails, preventing the landing gear from extending. In other cases, brake fluid leaks through the fatigue crack resulting in loss of braking action.

Original design landing gear pivots (with the original design bushings) could crack, fail, and result in gear-up landings or loss of braking.

Cessna has issued Service Bulletin SEB90–1, Revision 3, dated March 15, 1999. The service bulletin contains procedures for:

—inspecting the main landing gear pivot assemblies for cracks,
—replacing any cracked main landing gear pivot assemblies, and
—installing new bushings on the pivot assembly shaft.

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 certain Cessna Aircraft Company (Cessna) Model 172 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 30, 2000 (65 FR 64640). The NPRM proposed to require you to inspect the main landing gear pivot assemblies for cracks, replace any cracked main landing gear pivot assemblies, and install new bushings on the pivot assembly shaft.

What is the potential impact if FAA took no action? Original design landing gear pivots (with the original design bushings) could crack, fail, and result in gear-up landings or loss of braking.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Why Apply the AD Action Since it is Not Cost Effective?

What is the commenter's concern? One commenter states that this action is not cost effective because the cost of a gear up landing would be less than compliance with the AD. We infer that the commenter wants the NPRM withdrawn.

What is FAA's response to the concern? The FAA disagrees. The cost of a repair because of a gear up landing would be substantially more than compliance with the AD. The failed pivot would have to be replaced as well as repairs made for damage to the skin, antennas, propeller, wingtip, and other parts. The most important aspect is the safety issue. The passenger injuries that could be prevented through compliance with this AD outweigh the cost of compliance with this AD.

We are not changing the AD based on these comments.

Comment Issue No. 2: Why Not Apply the AD Only to Airplanes That Have Experienced Hard Landings?

What is the commenter's concern? Two commenters recommend that the AD only apply to airplanes that have experienced hard landings. The service bulletin recommends doing this inspection after hard landings.

What is FAA's response to the concern? We disagree. The pivot is improperly loaded during any landing because the small bushing on the pivot allows the small part of the pivot to be loaded before the main bearing is loaded. The installation of the service kit removes this problem.

We are not changing the AD based on these comments.

Comment Issue No. 3: Why Not Require the AD Only on High Time Training Airplanes Where the Landing Gear Has Experienced Many Landings?

What is the commenter's concern? Three commenters recommend that the AD only be required on high time training airplanes where the landing gear has experienced many landings.

What is FAA's response to the concern? The FAA agrees that the reported failures are probably related to the number of landings experienced by the pivot. However, there is no way of determining the number of landings on these airplanes and failures have happened before reaching 2,000 hours time-in-service.

We are not changing the AD based on these comments.

Comment Issue No. 4: Why Not Wait on Taking Action Until a Leak in the Brake System is Detected?

What is the commenter's concern? Two commenters state that action should not be taken unless a leak in the brake system is detected. This is because brake fluid can leak out through cracks in the pivot fitting.

What is FAA's response to the concern? The FAA disagrees. Leaking brake fluid has not preceded all reported failures. A crack would have to be nearly half way through the pivot fitting before any brake fluid would leak.

We are not changing the AD based on these comments.

Comment Issue No. 5: What is the Provision for Airplanes Already in Compliance With Cessna Service Bulletin SEB90–1, Revision 3, Dated March 15, 1999?

What is the commenter's concern? One commenter states that FAA should make a provision for airplanes already complying with the service bulletin.

What is FAA's response to the concern? The FAA agrees and we are changing the final rule AD to provide for airplanes that already meet the requirements of the service bulletin.

Comment Issue No. 6: Why Require an AD Because the Condition Rarely Results in Injury to Occupants and Airframes Are Usually Repairable?

What is the commenter's concern? Three commenters feel that an AD is not required because the condition rarely results in injury to occupants and airframes are usually repairable. Two of the commenters used the risk assessment from the Small Airplane Directorate Airworthiness Concern Process Guide to conclude that a Special Airworthiness Information Bulletin (SAIB) or General Aviation Alert (GAA) would be appropriate instead of the proposed AD. They state that a landing gear failure is not a hazardous event, and should not be considered a major or minor event when using the risk assessment.

What is FAA's response to the concern? We disagree that an SAIB or GAA would be appropriate. Although injuries in landing gear accidents involving the Cessna 172RG are rare, FAA's risk assessment shows that an airworthiness directive is required because landing gear failure is listed as hazardous in the guide.

We are not changing the final rule as a result of these comments.

FAA's Determination

What is FAA's Final Determination on this Issue? We carefully reviewed all available information related to the subject presented above and determined that air safety and the public interest require the adoption of the rule as proposed except for the changes discussed above and minor editorial corrections. These changes and corrections provide the intent that was proposed in the NPRM for correcting the unsafe condition and do not impose any additional burden than what was intended in the NPRM.

Cost Impact

How many airplanes does this AD impact? We estimate that this AD affects 766 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate that it would take about 20 workhours for each airplane to do both proposed pivot assembly inspections, at an average labor rate of $60 an hour. Based on the figures presented above, we estimate the total cost impact of the inspection on U.S. operators is $919,200, or $1,200 for each airplane.

We estimate that it would take about 5 workhours for each airplane, to do both bushing replacements, at an average labor rate of $60 an hour. Parts cost about $200 for each airplane. Based on the figures presented above, we estimate the total cost impact of the bushing replacement on U.S. operators is $500 for each airplane.

If a crack is found during the pivot assembly inspection, the pivot assembly must be replaced. We estimate that it would take about 3 workhours to do each pivot assembly replacement, at an average labor rate of $60 an hour. Parts cost about $2,783 for each pivot assembly. Based on the figures presented above, we estimate the total cost impact of the pivot assembly replacement on U.S. operators is $2,963 for each pivot assembly.

We have no way of knowing how many airplanes will require replacement pivot assemblies. The total cost for each airplane for this AD depends on whether a crack is found during the inspection of the pivot assembly. We estimate the total cost impact of this AD for each airplane to U.S. operators is:

Neither pivot cracked—$1,700
One pivot cracked—$4,663
Both pivots cracked—$7,626

Regulatory Impact

Does this AD impact various entities? The regulations adopted 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. We have determined that this 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. We have placed a copy of the regulatory evaluation prepared for this action in the Rules Docket. You may get a copy of it by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2001–06–06 Cessna Aircraft Company: Amendment 39–12153; Docket No. 2000–CE–24–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model 172RG, with the serial numbers 691 and 172RG0001 through 172RG1191, certified in any category.

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

(c) *What problem does this AD address?* The actions specified in this AD are intended to detect, correct, and prevent future cracks on the original design landing gear pivots. Cracked main landing gear pivots could fail, resulting in gear-up landings or loss of braking.

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

Actions	Compliance times	Procedures
(1) Inspect the main landing gear pivot assemblies for cracks.	Within the next 100 hours time-in-service after the effective date of this AD.	Do this action following the Accomplishment Instructions in Cessna Service Bulletin SEB90–1, Revision 3, dated March 15, 1999, and the Model 172RG Series Service Manual.
(2) If you find cracks, replace the affected main landing gear pivot assembly with the part referenced in the service bulletin.	Before further flight after the inspection	Do this action the following Accomplishment Instructions in Cessna Service Bulletin SEB90–1, Revision 3, dated March 15, 1999, and the Model 172RG Series Service Manual.
(3) Install new bushings on both main landing gear pivot assemblies using the applicable kit referenced in the service bulletin.	Before further flight after the inspection	Do this action the following the Accomplishment Instructions in Cessna Service Bulletin SEB90–1, Revision 3, dated March 15, 1999, and Model 172RG Series Service Manual.

(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, Wichita Aircraft Certification Office, approves your alternative. Send your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note: 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 Steven Litke, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4127; facsimile: (316) 946–4407.

(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 §§ 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 do 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 Cessna Service Bulletin SEB90–1, (including Accomplishment Instructions), Revision 3, and Cessna Service Kit SK 172–151, all dated March 15, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277. You may look at 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.

(i) *When does this amendment become effective?* This amendment becomes effective on May 14, 2001.

Issued in Kansas City, Missouri, on March 13, 2001.

Larry E. Werth,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6786 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AEA–05FR]

Establishment of Class E Airspace: Rome, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Griffiss Airpark, Rome, NY. Development of Standard Instrument Approach Procedures (SIAP) for the Airpark has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing an instrument approach to the Griffiss Airpark.

EFFECTIVE DATE: 0901 UTC April 9, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 2, 2001 a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL), was published in the **Federal Register** (66 FR 8772–8773). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before March 5, 2001. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000 and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be amended in the order.

The Rule

The amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations at the Griffiss Airpark, Rome, NY.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are

necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA NY E5 Rome, NY [NEW]

Griffiss Airpark
(Lat. 43°14′04″ N/long. 75°24′43″ W)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of Griffiss Airpark, Rome, NY.

* * * * *

Issued in Jamaica, New York on March 12, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–7420 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AEA–14FR]

Establishment of Class E Airspace: Waynesboro, VA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Waynesboro, VA. This action is necessitated by the development of a Helicopter Point in Space Approach to the Augusta Medical Center. Controlled airspace extending upward from 700 feet to 1200 feet Above Ground Level (AGL) is needed to contain aircraft executing the Point in Space approach to the Augusta Medical Center Heliport.

EFFECTIVE DATE: 0901 UTC March 30, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On January 12, 2001 a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward from 700 feet to 1200 feet Above Ground Level (AGL) for the Helicopter Point in Space approach to the Augusta Medical Center, Waynesboro, VA, was published in the **Federal Register** (66 FR 2850). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before February 12, 2001. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000 and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be amended in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations at the Augusta Medical Center Heliport, Waynesboro, VA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Waynesboro, VA [New]

Augusta Medical Center Heliport
(Lat. 38°06′29″ N/long. 78°59′12″ W)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of Augusta Medical Center Heliport.

* * * * *

Issued in Jamaica, New York on March 12, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–7418 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AEA–13FR]

Establishment of Class E Airspace: Harrisonburg, VA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Harrisonburg, VA. This action is necessitated by the development of a Helicopter Point in Space Approach to the Rockingham Memorial Hospital Heliport, Harrisonburg, VA. Controlled airspace extending upward from 700 feet to 1200 feet Above Ground Level (AGL) is needed to contain aircraft executing the Point in Space approach to the Rockingham Memorial Hospital Heliport.

EFFECTIVE DATE: 0901 UTC April 9, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 2, 2001 a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward from 700 feet to 1200 feet Above Ground Level (AGL) for the Helicopter Point in Space approach to the Rockingham Hospital Heliport, Harrisonburg, VA, was published in the **Federal Register** (66 FR 8773). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before March 5, 2001. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000 and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be amended in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations at the Rockingham Memorial Hospital Heliport, Harrisonburg, VA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Harrisonburg, VA [NEW]

Rockingham Memorial Hospital Heliport.
(Lat. 38°26′53.88″ N/long. 78°52′40.98″ W)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of Rockingham Memorial Hospital Heliport.

* * * * *

Issued in Jamaica, New York on March 12, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–7417 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 12, 113 and 141

[T.D. 01–26]

RIN 1515–AC45

Assessment of Liquidated Damages Regarding Imported Merchandise That Is Not Admissible Under the Food, Drug and Cosmetic Act

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, a proposed amendment to the Customs Regulations intended to discourage the illegal sale of imported food. This amendment provides for the assessment of liquidated damages equal to the domestic value of the merchandise in the case of merchandise that is not admissible under the provisions of the Food, Drug and Cosmetic Act and that is not treated or otherwise disposed of in accordance with that Act. The document also adopts, without change, proposed amendments to various provisions of the Customs Regulations pertaining to customs bonds to provide, as a general rule when a different amount is not prescribed by law or regulation, for liquidated damages of three times the appraised value of the merchandise in the case of merchandise that is prohibited from entry. Finally, the document adopts a proposed editorial correction within one of the sections of the Customs Regulations pertaining to customs bonds. The substantive changes reflected in this final rule document will enhance the effectiveness of the affected regulatory provisions by increasing and clarifying

the potential liability for the payment of liquidated damages by principals and sureties on customs bonds.

EFFECTIVE DATE: April 27, 2001.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch (202–927–2344).

SUPPLEMENTARY INFORMATION:

Background

Section 801 of the Food, Drug and Cosmetic Act, as amended (21 U.S.C. 381), and the regulations promulgated under that statute, provide the basic legal framework governing the importation of foodstuffs into the United States. Under 21 U.S.C. 381(a), the Secretary of Health and Human Services is authorized to refuse admission of, among other things, any article that is adulterated or misbranded or that has been manufactured, processed or packed under insanitary conditions. The Secretary of the Treasury is required by section 381(a) to cause the destruction of any article refused admission unless the article is exported, under regulations prescribed by the Secretary of the Treasury, within 90 days of the date of the refusal or within such additional time as may be permitted pursuant to those regulations.

Under 21 U.S.C. 381(b), pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of that article to the owner or consignee upon the execution of a good and sufficient bond providing for the payment of liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. In addition, section 381(b) allows the owner or consignee in certain circumstances to take action to bring an imported article into compliance for admission purposes, under such bonding and other requirements as the Secretary of the Treasury may prescribe by regulation.

Based upon the above statutory authority, imported foodstuffs are conditionally released under bond while determinations as to admissibility are made; *see* § 12.3 of the Customs Regulations (19 CFR 12.3). Under § 141.113(c) of the Customs Regulations (19 CFR 141.113(c)), Customs may demand the return to Customs custody of most types of merchandise that fail to comply with the laws or regulations governing their admission into the United States (also referred to as the redelivery procedure). The condition of the basic importation and entry bond contained in § 113.62(d) of the Customs Regulations (19 CFR 113.62(d)) sets forth the obligation of the importer of record to timely redeliver released merchandise to Customs on demand and provides that a demand for redelivery will be made no later than 30 days after the date of release of the merchandise or 30 days after the end of the conditional release period, whichever is later. Failure to meet the obligation to redeliver contained in § 113.62(d) will create a potential liability for the payment of liquidated damages under the terms of the bond.

Proposed Regulatory Change Regarding Use of the Domestic Value Standard for Liquidated Damages

In an April 1998 report to the Chairman of the Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate, on the subject of food safety, the United States General Accounting Office (GAO) determined that federal efforts to ensure the safety of imported foods were inconsistent and unreliable. Among its specific conclusions, the GAO report indicated that a weakness existed in the customs bond structure in that liquidated damages arising from breach of obligations to redeliver merchandise for which admission was refused did not represent a deterrent to the importation of unsafe products. The GAO reported that liquidated damages of three times the entered value (the existing standard) may not discourage the illegal sale of imported food because the value of the food on the domestic retail market (''domestic value'') may be far greater than three times the entered value.

In response to this study, Customs on August 2, 1999, published a notice of proposed rulemaking in the **Federal Register** (64 FR 41851) to amend § 12.3 of the Customs Regulations (19 CFR 12.3) by designating the existing text as paragraph (a) and adding a new paragraph (b) that referred specifically to the assessment of liquidated damages with regard to any food, drug, device or cosmetic that is not redelivered into Customs custody or otherwise treated or disposed of within the time period prescribed by law after the merchandise has been found to be inadmissible pursuant to the provisions of the Food, Drug and Cosmetic Act. This proposed new paragraph (b) provided for the assessment of liquidated damages in an amount equal to the ''domestic value'' of the merchandise at the time of entry as if it had not been refused admission or otherwise found to be noncompliant. For purposes of calculating the liquidated damages, the new paragraph (b) text specifically referred to § 162.43(a) of the Customs Regulations (19 CFR 162.43(a)) which defines ''domestic value'' as ''the price at which such or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade.''

Customs also notes that a Presidential memorandum dated July 3, 1999, directed the Secretaries of the Treasury and Health and Human Services to undertake a comprehensive plan to better protect the American consumer from unsafe imported foods. One of the recommended actions involved increasing the amount of the bond posted for imported foods when necessary to deter premature and illegal entry into the United States. Although the preamble portion of the August 2, 1999, notice of proposed rulemaking did not specifically discuss this recommendation, the stated reason behind the proposed new paragraph (b) text of § 12.3 was entirely consistent with that recommendation.

Proposed Regulatory Change Regarding use of the ''Three Times'' Value Standard for Prohibited Merchandise

The conditions of the basic importation and entry bond set forth in § 113.62 of the Customs Regulations (19 CFR 113.62), the conditions of the basic custodial bond set forth in § 113.63 of the Customs Regulations (19 CFR 113.63), the conditions of the international carrier bond set forth in § 113.64 of the Customs Regulations (19 CFR 113.64), the conditions of the commercial gauger and commercial laboratory bond as set forth in § 113.67 of the Customs Regulations (19 CFR 113.67), and the conditions of the foreign trade zone operator bond as set forth in § 113.73 of the Customs Regulations (19 CFR 113.73) prescribe, as a consequence of default, the assessment of liquidated damages equal to three times the appraised value of the merchandise involved in the default if that merchandise is ''restricted merchandise or alcoholic beverages.'' Similar language is also used in § 141.113(h) of the Customs Regulations (19 CFR 141.113(h)), which recites the liquidated damages that may be assessed for failure to comply with a demand for return of merchandise to Customs custody.

A question had arisen whether the ''three times'' standard for liquidated damages would be appropriate when the merchandise involved in the default is prohibited from entry. While it remained Customs position that the regulatory provisions referred to above permitted the assessment of three times the appraised value of the merchandise

when the merchandise involved in the default was prohibited, the August 2, 1999, notice of proposed rulemaking proposed to amend each of those regulatory provisions to provide explicitly for the assessment of three times the appraised value of the merchandise when the merchandise involved is restricted ''or prohibited.''

Proposed Editorial Correction

Finally, the August 2, 1999, notice of proposed rulemaking included a proposed editorial correction to the first sentence of § 113.62(l)(1), (19 CFR 113.62(l)(1)), which sets forth the consequences of default. This correction involved the addition of a reference to condition ''(k)'' of § 113.62 in the exceptions to the general rules regarding the amount of liquidated damages that may be assessed (that is, the value of, or three times the value of, the merchandise involved in the default), because a different level of liquidated damages (that is, $100 per thousand board feet of the imported lumber) is prescribed for condition (k) in paragraph (l)(5) of that section.

The notice of proposed rulemaking invited the submission of public comments on the proposed amendments, and the public comment period closed on October 1, 1999. A total of 13 commenters responded to the solicitation of comments. A discussion of those comments follows.

Discussion of Comments

Comment

One commenter suggested that proposed paragraph (b) of § 12.3 should be incorporated into the bond cancellation standards that were published in T. D. 94–38. The commenter also suggested that the conditional release language of the bond should be eliminated inasmuch as it does not comport with commercial reality.

Customs Response

Customs does not believe that the suggestions of this commenter should be adopted. Elimination of the conditional release period falls outside the scope of this rulemaking action. Additionally, the bond cancellation standards to which the commenter referred do not govern liquidated damages assessment. Liquidated damages amounts are included in bond terms and conditions which are prescribed in Part 113 of the Customs Regulations.

Comment

Numerous commenters indicated that assessment of liquidated damages in an amount equal to the domestic value of merchandise refused admission might actually serve to reduce the amount of liquidated damages assessed. One of these commenters indicated that Customs has historically calculated domestic value of merchandise to be two times the entered value plus the duty. As such, the proposed regulation will actually reduce liquidated damages amounts. Such an anomalous result would serve to undermine the purpose of the proposed regulation. Another commenter suggested that, to correct this problem, Customs should reword the regulation to provide for the assessment of liquidated damages of up to three times the value or the domestic value of the refused product, whichever is greater.

Customs Response

Customs agrees with the commenters that the proposed language might actually serve to reduce liquidated damages, clearly contrary to the intent of the GAO and the Presidential memorandum of July 3, 1999, as discussed above. Accordingly, in this final rule document a new paragraph (b) has been added to the revised § 12.3 text and proposed paragraph (b) has been modified and redesignated as paragraph (c) in order to provide for a bond, and thus the assessment of liquidated damages, either in an amount equal to the domestic value of the merchandise or in an amount equal to three times the (appraised) value of the merchandise.

Comment

One commenter was of the view that Customs has mistakenly considered merchandise that has been refused admission by the Food and Drug Administration (FDA) to be considered ''prohibited or restricted merchandise'' for purposes of liquidated damages assessment. The commenter would like to see the rule clarified to indicate that restricted or prohibited merchandise does not refer to merchandise refused admission by the FDA.

Customs Response

Customs disagrees with the commenter. By definition, merchandise that has been refused admission by the FDA is prohibited merchandise and should be treated as such.

Comment

Several commenters stated that proposed paragraph (b) of § 12.3 substantially increases liquidated damages assessments without providing sureties sufficient information to determine the amount of their increased exposure. As a consequence, all importers likely will be charged increased amounts for bonds. Numerous other commenters claimed that the proposed regulation was an undue burden on trade, and they also concluded that increased charges to importers will unnecessarily result because of the proposed change. These commenters stated that the majority of compliant importers will be forced to subsidize the costs incurred because of a very few recalcitrant importers. One of the commenters additionally noted that the GAO report adopted the position that bonds were inadequate as a result of anecdotal evidence that certain foods were resold at prices up to 15 times their entered value. The commenter argued that this anomalous situation should not be the basis for raised potential liquidated damages for all.

Customs Response

Customs acknowledges that the majority of importers of FDA-regulated merchandise comply with the laws governing the importation of food, drugs and cosmetics. In recognition of that fact and in response to the concerns raised by the commenters with regard to the incurring of risk and with regard to the potential economic impact of the regulation on compliant importers as proposed, the text of new paragraph (b) of § 12.3 as mentioned above gives the port director a choice as regards the bond amount to be prescribed (that is, an amount based on either the domestic value standard or the three-times-the-value standard), with the choice to be made according to the circumstances of the individual case. The bond amount thus would be importer-specific rather than being standard for all importers of FDA-regulated products. Sureties would then be in a better position to evaluate their risk and Customs would be better able to adjust the bond amount for those importers whose track records would require a higher bond.

Comment

Some commenters suggested that liquidated damages at the proposed domestic value amount are deterrents designed to punish violators, not to recompense the government for loss. They stated that section 1592 penalties are noted as being the appropriate vehicle to punish an importer who would attempt the importation of refused merchandise.

Customs Response

Customs disagrees with the commenters that assessment and collection of the liquidated damages claim amount of domestic value is punitive. When articles that have been refused admission by the FDA are not

redelivered to Customs, but are distributed into commerce, the exact amount of damages incurred by the public is difficult to quantify. Customs takes the view that the domestic value standard of liquidated damages is reasonable under the circumstances. It is well settled that liquidated damages are not penalties if they are reasonable and the exact amount of the damages sustained would be difficult to prove. See, *U.S.* v. *Imperial Food Imports*, 834 F.2d 1013 (Fed. Cir. 1987); *Fraser* v. *United States*, 261 F.2d 282 (9th Cir. 1958); *Ely* v. *Wickham,* 158 F.2d 233 (10th Cir. 1946).

Comment

Numerous commenters objected to the use of ''domestic value'' as a method of determining an adequate bond amount. They claimed that this term is imprecise. They were of the view that the three-times-entered-value liquidated damages amount is clear and that reference to domestic value only confuses the issue.

Customs Response

Customs notes that the term ''domestic value'' is currently defined in, and has been successfully administered under, the Customs Regulations. Customs also believes that any objection to the domestic value standard will be mitigated by the fact that the regulatory texts adopted in this final rule document will not require all importers to post bonds based on a higher domestic value standard. Rather, as indicated above, it is anticipated that a higher bonding level will only be required of those importers who have a history of failing to redeliver or export, destroy or otherwise dispose of inadmissible imported food, drugs and cosmetics.

Comment

Numerous commenters claimed that the raising of liquidated damages amounts does not serve to stop unsafe products from entering the commerce. These commenters suggested that release of the products be withheld or that immediate delivery privileges be withdrawn.

Customs Response

The assertion of these commenters regarding the effectiveness of raising liquidated damages amounts appears to be at variance with the conclusions reached by the GAO as discussed above. Other remedies such as those suggested by these commenters fall outside the scope of this document.

Conclusion

Accordingly, based on the comments received and the analysis of those comments as set forth above, and after further review of this matter, Customs believes that the proposed regulatory amendments should be adopted as a final rule with certain changes as discussed above and as set forth below. Finally a number of additional minor, editorial-type changes have been made to the regulatory texts set forth in this final rule document. These changes principally involve the replacement of legalistic wording with simple or more direct phraseology, consistent with prevailing plain English drafting principles and without any substantive change.

Regulatory Flexibility Act and Executive Order 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that these amendments will not have a significant economic impact on a substantial number of small entities. The regulatory amendments will not require any additional action on the part of the public, will affect only a small number of importers, and are intended to facilitate Customs enforcement efforts involving existing import requirements. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Furthermore, this document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

List of Subjects

19 CFR Part 12

Bonds, Customs duties and inspection, Labeling, Marking, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise, Seizure and forfeiture, Trade agreements.

19 CFR Part 113

Bonds, Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 141

Bonds, Customs duties and inspection, Entry procedures, Imports, Prohibited merchandise, Release of merchandise.

Amendment to the Regulations

For the reasons stated in the preamble, Parts 12, 113 and 141, Customs Regulations (19 CFR Parts 12, 113 and 141), are amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for Part 12 continues to read, and the specific authority citation for § 12.3 is revised to read, as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS), 1624.

* * * * *

Section 12.3 also issued under 7 U.S.C. 135h, 21 U.S.C. 381;

* * * * *

2. Section 12.3 is revised to read as follows:

§ 12.3 Release under bond; liquidated damages.

(a) *Release.* No food, drug, device, cosmetic, pesticide, hazardous substance or dangerous caustic or corrosive substance that is the subject of § 12.1 will be released except in accordance with the laws and regulations applicable to the merchandise. When any merchandise that is the subject of § 12.1 is to be released under bond pursuant to regulations applicable to that merchandise, a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, will be required.

(b) *Bond amount.* The bond referred to in paragraph (a) of this section must be in a specific amount prescribed by the port director based on the circumstances of the particular case that is either:

(1) Equal to the domestic value (see § 162.43(a) of this chapter) of the merchandise at the time of release as if the merchandise were admissible and otherwise in compliance; or

(2) Equal to three times the value of the merchandise as provided in § 113.62(l)(1) of this chapter.

(c) *Liquidated damages.* Whenever liquidated damages arise with regard to any food, drug, device or cosmetic subject to § 12.1(a) for failure to redeliver merchandise into Customs custody or for failure to rectify any noncompliance with the applicable provisions of admission, including the failure to export or destroy the merchandise within the time period prescribed by law after the merchandise has been refused admission pursuant to the provisions of the Food, Drug and Cosmetic Act, those liquidated damages will be assessed pursuant to § 113.62(l)(1) of this chapter in the

amount of the bond prescribed under paragraph (b) of this section.

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

§ 113.62 [Amended]

2. In § 113.62, paragraph (l)(1) is amended by removing the words ''conditions (a), (g), or (i)'' and adding, in their place, the words ''conditions in paragraphs (a), (g), (i), or (k) of this section'' and by adding the words ''or prohibited'' after the word ''restricted''.

§ 113.63 [Amended]

3. In § 113.63, paragraph (h)(1) is amended by adding the words ''or prohibited'' after the word ''restricted''.

§ 113.64 [Amended]

4. In § 113.64, the second sentence of paragraph (b) is amended by adding the words ''or prohibited'' after the word ''restricted''.

§ 113.67 [Amended]

5. In § 113.67, paragraphs (a)(2)(i) and (b)(2)(i) are amended by adding the words ''or prohibited'' after the word ''restricted''.

§ 113.73 [Amended]

6. In § 113.73, the second sentence of paragraph (a)(2) is amended by adding the words ''or prohibited'' after the word ''restricted''.

PART 141—ENTRY OF MERCHANDISE

1. The authority citation for Part 141 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

Section 141.113 also issued under 19 U.S.C. 1499, 1623.

§ 141.113 [Amended]

2. In § 141.113, the first sentence of paragraph (h) is amended by adding the words ''or prohibited'' after the word ''restricted''.

Raymond W. Kelly,

Commissioner of Customs.

Approved: March 8, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–7659 Filed 3–27–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 24

[T.D. 01–25]

RIN 1515–AC82

Amended Procedure for Refunds of Harbor Maintenance Fees Paid on Exports of Merchandise

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim regulation.

SUMMARY: This document amends the Customs Regulations to provide a new procedure for requesting refunds of export harbor maintenance fees collected by Customs since 1987. The United States Supreme Court held these fees to be unconstitutional in 1998. Customs has received numerous requests for refunds from exporters who paid these export fees. The new procedure will simplify the refund process by relieving exporters from documentary requirements in most cases. This amendment is being made on an interim basis in order to expedite the process for exporters entitled to refunds of fees held unconstitutional and no longer required under the Customs Regulations.

DATES: The interim regulation is effective on March 28, 2001. Written comments must be received on or before April 27, 2001.

ADDRESSES: Written comments may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Ave., NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Deborah Thompson, Accounts Receivable Branch, Accounting Services Division, (317) 298–1200 (ext. 4003).

SUPPLEMENTARY INFORMATION:

Background

The Harbor Maintenance Fee (HMF) was created by the Water Resources Development Act of 1986 (Pub. L. 99–622; codified at 26 U.S.C. 4461 *et seq.*) (the Act) and is implemented by § 24.24 of the Customs Regulations (19 CFR 24.24). Imposition of the HMF is intended to require those who benefit from the maintenance of U.S. ports and harbors to share in the cost of that maintenance. Pursuant to the Act and as implemented by the regulations, the HMF became effective on April 1, 1987.

The HMF has been assessed on port use associated with imports, exports, foreign trade zone admissions, passengers, and movements of cargo between domestic ports. Currently, the fee is assessed based on 0.125 percent of the value of commercial cargo loaded or unloaded at certain identified ports or, in the case of passengers, on the value of the actual charge paid for the transportation. In 1998, the U.S. Supreme Court held the fee unconstitutional as applied to exports (*United States Shoe Corporation* v. *United States,* 118 S. Ct. 1290, No. 97–372 (March 31, 1998)). Subsequently, by a notice published in the **Federal Register** (63 FR 24209) on May 1, 1998, Customs announced that, as of April 25, 1998, the HMF for cargo loaded on board a vessel for export will no longer be collected. On July 31, 1998, Customs published in the **Federal Register** (63 FR 40822) an amendment to § 24.24 of the Customs Regulations, removing the requirement that exporters loading cargo at ports subject to the HMF are liable for payment of the fee. Thus, currently, application of the HMF continues but only for imports, domestic shipments, foreign trade zone admissions, and passengers.

On August 28, 1998, the U.S. Court of International Trade (CIT) ordered an immediate refund of undisputed export fee payments to exporters who had filed complaints with the court seeking recovery of these payments (*United States Shoe Corp.* v. *United States,* No. 94–11–00668, slip op. 98–126 (C.I.T. Aug. 28, 1998)). The order applied to payments received by Customs within two years of an exporter's filing of a complaint with the court. The order required these exporters to file a claim with Customs (attaching a copy of the filed complaint) and required that Customs would: (1) Conduct an initial search of its database for all export fee payments subject to refund (made during the prescribed two-year period) that were received from the exporter; (2) notify the exporter of that amount; and (3) unless disputed by the exporter, submit a stipulated judgment to the court for the court to enter judgment and order Customs to issue refunds to the exporter in the determined amount. Again, this court-ordered procedure applied only to exporters who filed a complaint with the court. Accordingly, Customs issued refunds only to exporters who received judgments from the court. All refund claims made under the court-ordered procedure have been processed.

Subsequently, on February 28, 2000, the U.S. Court of Appeals for the Federal Circuit, noting that the Customs Regulations do not impose a time limit on requests for refunds of the HMF (see current 19 CFR 24.24(e)(4)), held that

there is no limitation on the period within which a refund request may be filed pursuant to Customs Regulations (*Swisher International, Inc.* v. *United States,* 205 F. 3d 1358 (No. 99–1277 C.A.F.C. February 28, 2000), cert. denied). This ruling allowed exporters who received refunds under the procedure imposed by the court to file administrative requests (processed according to the Customs Regulations without filing a complaint in the court) for additional export fee refunds going back to July of 1987. Those exporters who never filed a complaint under the court procedure were also free to file administratively for export fee refunds.

Current Administrative Procedure for Refund of Export Harbor Maintenance Fees

The administrative procedure for requesting refunds of export fee (and other HMF) payments is provided for under § 24.24(e)(4) of the Customs Regulations (19 CFR 24.24(e)(4)). Under the regulation, exporters are required to file with Customs a request for a refund on a Harbor Maintenance Fee Amended Quarterly Summary Report (Customs Form (CF) 350), accompanied by copies of any relevant Harbor Maintenance Fee Quarterly Summary Reports (CF 349) representing proof of payment of the export fee. Prior to May of 1991, when the Customs Regulations were amended to require submission of the CF 349 with payment of the fee, the regulations required submission of an Export Vessel Movement Summary Sheet (EVM Summary Sheet) or, where Automated Summary Monthly Shipper's Export Declarations were filed, a letter (SED letter) containing the exporter's identity, its employer identification number (EIN), the applicable Census Bureau reporting symbol, and the quarter for which the payment was being made. Many exporters, not having copies of these payment forms, have filed requests for documentation under the Freedom of Information Act (FOIA). Most of these FOIA requests have not yet been processed by Customs, as the volume of requests has had the effect of straining resources.

Amended Administrative Procedure for Refund of Export Harbor Maintenance Fees

To proceed with the issuance of export fee refunds, and to simplify the process and improve its effectiveness, this document amends the Customs Regulations to provide a new procedure for exporters requesting a refund of export fees.

The procedure set forth in the amended regulation is designed to allow a refund request without submission of documentary proof of payment in most cases. Because Customs possesses copies of original payment forms (CF 349s, EVM Summary Sheets, or SED letters) from July 1, 1990, through the date collection of the export fee ceased in 1998, submission of supporting documentation will not be required to obtain refunds of export fee payments made on or after July 1, 1990. However, Customs does not possess these documents for export fee payments made prior to that date. Accordingly, for refund requests relating to export fee payments made prior to July 1, 1990, the exporter must submit proof of payment with the letter of request, that is, relevant copies of EVM Summary Sheets or SED letters provided for under the then current regulations.

In making this amendment to the regulations, Customs recommends that exporters who have filed FOIA requests for copies of payment forms withdraw those requests. In most cases, payment forms sought through a FOIA request seeking documents pertaining to payments made on or after July 1, 1990, are not necessary to obtain a refund. In addition, because Customs does not possess payment forms relating to export fees paid prior to July 1, 1990, a FOIA request relative to payments made during this period would be fruitless. If the FOIA requests are withdrawn, Customs will be able to more effectively expend its time and resources on the refunding of export fees owed rather than on the processing of numerous FOIA requests. For the same reasons, Customs recommends that exporters seeking a refund of export harbor maintenance fees who have not filed FOIA requests refrain from doing so.

On December 15, 2000, Customs published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (65 FR 78430) that proposed, in the future, in the interest of administrative efficiency, that persons requesting refunds of harbor maintenance fees paid on a quarterly schedule have one year from the date of payment to file for refunds. This would apply to quarterly payments relating to domestic shipments, imported merchandise admitted into a foreign trade zone, passengers, and, though no longer collected, quarterly payments made on export fees. The one-year time limitation was proposed to commence on the date the quarterly fee was paid to Customs, except for fees paid on the unloading of imported merchandise admitted into a foreign trade zone and subsequently withdrawn from the zone for any purpose specified in 19 U.S.C. 1309. For these latter fees, the one-year time limitation was proposed to commence on the date merchandise was withdrawn from the foreign trade zone. If this amendment proposing a time limitation on filing refund requests is adopted as a final rule, refund requests for export fee payments (and for any other quarterly harbor maintenance fee payment older than one year) will be required to be received on or before the effective date of that final rule document, which will be 30 days from the date of its publication in the **Federal Register**.

Already-filed export fee refund requests. An exporter who has already filed a request for a refund of export fees need not file again. Customs will treat the already filed request as one made under the amended procedure set forth in this document. Customs will process these requests in the order received, so that these filers will not be disadvantaged.

Requesting and processing refunds under the amended regulation. The procedure for exporters requesting and Customs processing export fee refunds as set forth in the amended regulation includes the following steps and features:

1. The exporter requests a refund by filing a letter with Customs requesting a refund of export fee payments collected from that exporter (or collected from a freight forwarder or other agent who paid the fee on the exporter's behalf) by Customs. For payments made prior to July 1, 1990, the letter must identify specific payments claimed and be accompanied by supporting documentation for each payment (a copy of the then required EVM Summary Sheet or its alternative document, an SED letter). For payments made on or after July 1, 1990, the letter must specify the quarters for which a refund is sought and include the following information: the exporter's name, address, and EIN; if payments of the fee were made by a freight forwarder or other agent on the exporter's behalf, the name and EIN of the freight forwarder or other agent; and the name, telephone number, and facsimile number of a contact person to answer questions. Supporting documentation need not be submitted for payments made during this period.

2. If the NPRM of December 15, 2000, is adopted as a final rule, the request for export fee refunds must be received by Customs by the effective date of that final rule document, 30 days after the date of its publication in the **Federal Register**. Requests for refunds filed after that date relative to quarterly harbor maintenance fee payments that are more

than a year old will be rejected as untimely.

3. Upon receipt of a timely filed letter of request for a refund, Customs, for payments made prior to July 1, 1990, will evaluate the documentation submitted and issue a refund if warranted. If the request lacks documentation or the documentation is insufficient, the request will be rejected, in which case the exporter will be given an additional 120 days to submit documentation/additional documentation for Customs consideration and final decision. (For purposes of filing a protest under 19 U.S.C. 1514 (within 90 days of a covered Customs decision), Customs initial decision will be final for exporters not filing documentation during the 120-day period.)

4. For payments made on or after July 1, 1990, Customs will perform a search of its records to locate export fee payment information relative to the exporter filing the refund request (and any freight forwarder or other agent named by the exporter as having made payments on the exporter's behalf) and the quarters identified in the letter of request. Customs will then issue a report to the exporter or its agent containing the results of the search. The report is entitled the ''Harbor Maintenance Tax Payment Report and Certification'' (the Report/Certification).

5. If the exporter agrees with the payment information in the Report/Certification, the exporter must sign the Report/Certification and return it to Customs with a letter providing an address for receipt of the refund. The Report/Certification must be signed by an officer of the company duly authorized to bind the company, or an agent (such as a broker or freight forwarder) authorized to sign a document of this kind under a properly executed power of attorney or a letter signed by the exporter. Upon receipt of the signed Report/Certification, Customs will issue the refund. If the exporter disagrees with any payment listed on the Report/Certification, or with the omission from the list of a payment it believes was made, the exporter must submit supplementary documentation (a copy of a relevant CF 349, EVM Summary Sheet, or SED letter) as proof of payment. Customs will conduct a second review and notify the exporter (or its agent) of the results. Depending on the results of the review, Customs will either confirm the disputed payment and issue a revised Report/Certification or notify the exporter that the disputed payment cannot be confirmed. In the latter instance, the Report/Certification will not be revised. To obtain the refund, the exporter must sign and return the (initial or revised) Report/Certification to Customs for its issuance of the refund.

6. The exporter's signature on the Report/Certification (or revised Report/Certification) signifies the exporter's concurrence with Customs determination of the full amount owed and constitutes the exporter's agreement that payment by Customs of the determined amount is in full accord and satisfaction of export fee claims against the Government. By its certification, the exporter will also release, waive, and abandon all claims against the Government, its officers, agents, and assigns for costs, attorney fees, expenses, compensatory damages, and exemplary damages arising out of all HMF export payments other than any payments Customs has already processed under the court-ordered procedure (for which release, etc., were already agreed to).

7. Upon receipt of a signed Report/Certification, the Government releases, waives, and abandons all claims other than fraud that it may have against the exporter or its officers, agents, or employees arising out of all HMF export payments other than those already processed under the court-ordered procedure (for which release, etc., were already agreed to).

8. As litigation concerning payment of interest on refunds continues, the exporter's claim to interest is not released, waived, or abandoned. However, as of the date of publication of this document, interest is not applicable to these refunds.

Customs emphasizes that the procedure for refunds set forth in § 24.24(e)(4)(ii) of the amended regulation applies only to payments of export fees that were held unconstitutional by the U.S. Supreme Court. The procedure for refund requests for any other harbor maintenance fees remains unchanged and is provided for in § 24.24(e)(4)(i) of the amended regulation.

Comments

Before adopting the interim regulation as a final rule, consideration will be given to any written comments timely submitted to Customs including comments on the clarity of the interim regulation and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)) on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Provisions

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that notice and public procedures for this regulation are unnecessary. The regulatory change in this document relieves certain exporters filing for refunds of export harbor maintenance fees from the restriction of having to file documentation representing proof of payment before receiving a refund. For the same reason, pursuant to 5 U.S.C. 553(d)(1) and (3), Customs is dispensing with a delayed effective date. However, before adopting final regulations, consideration will be given to all written comments timely submitted.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in the interim regulation has previously been reviewed and approved by the Office of Management and Budget (OMB) under OMB control number 1515–0158. Additional information requested in the interim regulation relates to usual and customary business information/records. This rule does not propose any substantive changes to the existing approved information collection.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this interim regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal author of this document was Bill Conrad, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices contributed in its development.

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Fees, Financial and accounting procedures, Imports, Taxes, User fees.

Amendments to the Regulations

For the reasons stated in the preamble, part 24 of the Customs

Regulations (19 CFR parts 24) is amended as follows:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

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

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States), 1505, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701.

* * * * *

2. Section 24.24 is amended by revising paragraph (e)(4) to read as follows:

§ 24.24 Harbor maintenance fee.

* * * * *

(e) *Collections*— * * *

(4) *Refund and supplemental payment.*—(i) *For fees paid on other than export movements.* If a refund is requested or a supplemental payment is made relative to quarterly fee payments previously made regarding the loading or unloading of domestic cargo, the unloading of cargo destined for admission into a foreign trade zone, or the boarding or disembarking of passengers, the refund request or supplemental payment must be accompanied by a Harbor Maintenance Fee Amended Quarterly Summary Report, Customs Form 350, along with a copy of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, for the quarter(s) covering the refund requested or the supplemental payment being made. A supplemental payment should be mailed to: U.S. Customs Service, PO Box 70915, Chicago, Illinois 60673–0915. A refund request should be mailed to: U.S. Customs Service, HMT Refunds, 6026 Lakeside Blvd., Indianapolis, IN, 26278. A request for a refund must specify the grounds for the refund. Refunds of fees regarding the unloading of imported cargo (except that admitted into a foreign trade zone) must be sought in accordance with the procedure for seeking a refund of ordinary duties.

(ii) *For fees paid on export movements.* Customs will process refund requests relative to fee payments previously made regarding the loading of cargo for export as follows:

(A) For export fee payments made prior to July 1, 1990, the exporter (the name that appears on the SED or equivalent documentation authorized under 15 CFR 30.39(b)) or its agent must submit a letter of request for a refund to the U.S. Customs Service, HMT Refunds, 6026 Lakeside Blvd., Indianapolis, IN, 26278, specifying the grounds for the refund and identifying the specific payments made. The letter must be accompanied by proof of payment then required under the regulations relative to each payment claimed, a copy of the Export Vessel Movement Summary Sheet or, where an Automated Summary Monthly Shipper's Export Declaration was filed, a letter containing the exporter's identification, its employer identification number (EIN), the Census Bureau reporting symbol, and the quarter for which the payment was made. Upon receiving a letter of request for a refund, Customs will evaluate the supporting documentation submitted and issue the refund to the exporter or its agent if warranted. Interest is not applicable to these refunds. If the request lacks documentation or the documentation submitted is insufficient, the exporter's refund request will be denied, in which case the exporter will have an additional 120 days to submit documentation or additional documentation. If the documentation submitted is insufficient, Customs will deny the request.

(B) For export fee payments made on or after July 1, 1990, the exporter or its agent must submit a letter of request for a refund (to the address set forth in paragraph (e)(4)(ii)(A) of this section) specifying the grounds for the refund, identifying the quarters for which a refund is sought, and containing the following additional information: the exporter's name, address, and employer identification number (EIN); the name and EIN of any freight forwarder or other agent that made export fee payments on the exporter's behalf; and a name, telephone number, and facsimile number of a contact person. If a refund request is filed by a freight forwarder or other agent on the exporter's behalf, the request must include a properly executed power of attorney and/or a letter signed by the exporter authorizing the representation. Refund requests for payments made on or after July 1, 1990, need not be accompanied by supporting documentation. Upon receipt of the letter of request, Customs will search its records for export fee payments made by or on behalf of the requesting exporter during the quarters identified in the letter of request. Customs will then mail to the exporter or its agent a ''Harbor Maintenance Fee Payment Report and Certification'' (Report/Certification) containing the results of the search and a statement of the amount of refunds owed to the exporter, if any. If the exporter agrees with the information in the Report/Certification, the exporter must sign the Report/Certification and submit it to Customs with a letter containing an address for mailing the refund. The Report/Certification must be signed by an officer of the company duly authorized to bind the company, or an agent (such as a broker or freight forwarder) authorized to sign the document under a properly executed power of attorney or a letter signed by an authorized officer of the company. Upon receipt of the signed Report/Certification, Customs will issue the refund. If the exporter disagrees with the information in the Report/Certification, the exporter must submit a letter explaining its claim along with proof of payment, either a copy of a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, for the quarter(s) covering the refund requested or, if applicable, a copy of an Export Vessel Movement Summary Sheet or, where an Automated Summary Monthly Shipper's Export Declaration was filed, a letter containing the exporter's identification, its employer identification number (EIN), the Census Bureau reporting symbol, and the quarter for which the payment was made. Upon receiving the letter and documentation, Customs will conduct a second review and will either confirm the exporter's claim and mail a revised Report/Certification to the exporter or its agent, or notify the exporter or its agent that confirmation cannot be made. In the latter instance, the Report/Certification will not be revised. Upon receipt of a properly signed Report/Certification (initial or revised), Customs will issue the refund. Interest is not applicable to these refunds. The signed Report/Certification received by Customs constitutes the exporter's agreement that Customs payment of the refund amount determined to be owed in the Report/Certification is in full accord and satisfaction of all export fee refund claims. The signed Report/Certification also represents the exporter's release, waiver, and abandonment of all claims against the Government, its officers, agents, and assigns for costs, attorney fees, expenses, compensatory damages, and exemplary damages. Upon receipt of the signed Report/Certification, Customs releases, waives, and abandons all claims other than fraud against the exporter, its officers, agents, or employees arising out of all export fee payments.

* * * * *

Dated: March 6, 2001.

Charles W. Winwood,

Acting Commissioner of Customs.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–7603 Filed 3–27–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 129 and 165

[Docket No. 01N–0126]

Beverages: Bottled Water

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its bottled water quality standard regulations by establishing allowable levels for three residual disinfectants (chloramine, chlorine, and chlorine dioxide) and three types of disinfection byproducts (DBP's) (bromate, chlorite, and haloacetic acids (HAA5)). FDA also is revising the existing allowable level for the DBP total trihalomethanes (TTHM). Finally, FDA is revising, for the three residual disinfectants and four types of DBP's only, the monitoring requirement for source water found in the current good manufacturing practice (CGMP) regulations for bottled water. As a consequence of FDA's amending the quality standard for these residual disinfectants and DBP's, bottled water manufacturers are required to monitor their finished bottled water products for these disinfectants and DBP's at least once each year under the CGMP regulations for bottled water. Bottled water manufacturers also are required to monitor for these contaminants at least once each year in their source water, unless the bottlers meet the criteria for source water monitoring exemptions under the CGMP regulations. This direct final rule will ensure that the minimum quality of bottled water, as affected by the previously mentioned disinfectants and DBP's, remains comparable with the quality of public drinking water that meets the Environmental Protection Agency's (EPA's) standards. FDA is issuing a direct final rule for this action because the agency expects that there will be no significant adverse comment on this rule. Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule under the agency's usual procedure for notice-and-comment rulemaking to provide a procedural framework to finalize the rule in the event the agency receives significant adverse comment and withdraws this direct final rule. The companion proposed rule and direct final rule are substantively identical.

DATES: This rule is effective January 1, 2002. Submit written comments by June 11, 2001. If FDA receives no significant adverse comments during the specified comment period, the agency will publish a document in the **Federal Register** no later than July 5, 2001, confirming the effective date of the direct final rule. If the agency receives any significant adverse comment during the comment period, FDA intends to withdraw this direct final rule by publication in the **Federal Register** no later than July 5, 2001. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR 51 of certain publications in § 165.110(b)(4)(iii)(I) as of January 1, 2002.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lauren Posnick, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–358–3568.

SUPPLEMENTARY INFORMATION:

I. Background

On December 16, 1998, EPA published the Stage 1 Disinfection Byproducts Rule (Stage I DBPR) (63 FR 69390) to address potential public health effects from the presence of disinfectants and DBP's in drinking water. This rulemaking finalized a proposed rule that EPA published in the **Federal Register** on July 29, 1994 (59 FR 38668).

Disinfectants are chemicals, such as chlorine and ozone, that are added to drinking water to control microbial contamination. Both bottlers and public water systems may use disinfectants. Public water systems typically add disinfectants to drinking water at levels sufficient to maintain a disinfectant residual throughout the distribution system (i.e., the system of pipes that takes water from water treatment plants to customers). DBP's are chemicals that result from the unintentional interaction of the disinfectants with inorganic or organic compounds present in the water supply. Examples of DBP's include chloroform (a byproduct of treatment with chlorine) and bromate (a byproduct of ozonation). Both disinfectants and DBP's can have adverse health effects (59 FR 38668 at 38679–38710).

National primary drinking water regulations (NPDWR's) are issued by EPA to protect the public health from the adverse effects of contaminants in drinking water. NPDWR's specify maximum contaminant levels (MCL's) or treatment techniques for drinking water contaminants. In addition, at the same time that it issues NPDWR's, EPA publishes maximum contaminant level goals (MCLG's), which are not regulatory requirements but rather are nonenforceable health goals that are based solely on considerations of protecting the public from adverse health effects of drinking water contamination. In its proposed rule on disinfectants and DBP's (59 FR 38668), EPA also introduced the concept of maximum residual disinfectant levels (MRDL's) and maximum residual disinfectant level goals (MRDLG's). MRDL's and MRDLG's are comparable to MCL's and MCLG's, in that they set contaminant levels and health goals, respectively. EPA used the terms MRDL and MRDLG for disinfectants, rather than using the terms MCL and MCLG, to reflect the fact that disinfectants have beneficial properties (63 FR 69390 at 69398; 59 FR 38668 at 38672, 38679).

In the Stage I DBPR (63 FR 69390), EPA issued NPDWR's consisting of MCL's for the DBP's bromate, chlorite, HAA5, and TTHM. EPA also published MRDL's for the chlorine-based disinfectants chlorine, chloramine, and chlorine dioxide. Finally, EPA published MCLG's and MRDLG's for these contaminants, as well as approved methods of testing for these contaminants.

Under section 410 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 349), not later than 180 days before the effective date of an NPDWR issued by EPA for a contaminant under section 1412 of the Safe Drinking Water Act (SDWA) (42 U.S.C. 300g-l),[1] FDA is required to issue a standard of quality regulation for that contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems but not in water

[1]FDA considers EPA's compliance date for subpart H public water systems (systems using surface water or ground water under the direct influence of surface water) that serve a population of 10,000 or more to be the effective date for purposes of section 410 of the act. The compliance date was set at December 16, 2001, in the Stage I DBPR (63 FR 69390) and updated in a subsequent rule to January 1, 2002 (65 FR 20303, April 14, 2000).

used for bottled drinking water. The effective date for any such standard of quality regulation is to be the same as the effective date of the NPDWR. In addition, section 410(b)(2) of the act provides that a quality standard regulation issued by FDA shall include monitoring requirements that the agency determines to be appropriate for bottled water. Further, section 410(b)(3) of the act requires a quality standard regulation for a contaminant in bottled water to be no less stringent than EPA's MCL and no less protective of the public health than EPA's treatment technique requirements for the same contaminant.

II. Direct Final Rulemaking

FDA has determined that the subjects of this rulemaking are suitable for a direct final rule. The actions taken should be noncontroversial and the agency does not anticipate receiving any significant adverse comment.

FDA is adopting EPA's MCL's for bromate, chlorite, HAA5, and TTHM and EPA's MRDL's for chloramine, chlorine, and chlorine dioxide as allowable levels for these contaminants in the quality standard regulation for bottled water. FDA also is adopting, for these contaminants in bottled water, the analytical methods that EPA approved for monitoring these contaminants in public drinking water. Finally, FDA is adding an exemption to source water testing, under the newly added § 129.35(a)(4)(iii), for the three residual disinfectants and four types of DBP's. Bottled water manufacturers are required to monitor for contaminants at least once each year in their source water unless the bottlers meet the criteria for source water monitoring exemptions under the CGMP regulations. Under the newly added § 129.35(a)(4)(iii), FDA will not require bottled water manufacturers to test under § 129.35(a)(3)(i) their source water for the residual disinfectants and DBP's listed in § 165.110(b)(4)(iii)(H), if their source water is not from a public water system and has not been treated with a chlorine-based disinfectant or ozone. However, bottled water manufacturers whose nonpublic source drinking water has been treated with a chlorine-based disinfectant or ozone must test, consistent with 129.35(a)(3)(i), their source water for the residual disinfectants and the DBP's listed in § 165.110(b)(4)(iii)(H) that are likely to result from such treatment. Under § 129.35(a)(3)(i), bottled water manufacturers who use a public water system are required to test their source water for these residual disinfectants and DBP's at a minimum frequency of once each year, unless they meet the requirements in § 129.35(a)(4)(i).

As a consequence of FDA's amending the quality standard for these residual disinfectants and DBP's in part 165 (21 CFR part 165), bottled water manufacturers are required to monitor their finished water bottled products for these disinfectants and DBP's at least once each year under the CGMP regulations for bottled water in part 129 (21 CFR part 129).

If FDA does not receive significant adverse comment on or before June 11, 2001, the agency will publish a notice in the **Federal Register** no later than July 5, 2001, confirming the effective date of the direct final rule. The agency intends to make the direct final rule effective January 1, 2002.

A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, FDA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse under this procedure. A comment recommending a change to the rule that is in addition to the rule will not be considered a significant adverse comment, unless the comment states why this rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of the rule and that part can be severed from the remainder of the rule, FDA may adopt as final those parts of the rule that are not the subject of a significant adverse comment. If timely significant adverse comments are received, the agency will publish a notice of significant adverse comment in the **Federal Register** withdrawing this direct final rule no later than July 5, 2001.

The companion proposed rule, which is in essence identical to the direct final rule, provides a procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of significant adverse comment. The comment period for the direct final rule runs concurrently with that of the companion proposed rule. Any comments received under the companion proposed rule will be treated as comments on the direct final rule. Likewise, significant adverse comments submitted to the direct final rule will be considered as comments to the companion proposed rule and the agency will consider the comments in developing a final rule. FDA will not provide additional opportunity for comment on the companion proposed rule. A full description of FDA's policy on direct final rule procedures may be found in a guidance document published in the **Federal Register** of November 21, 1997 (62 FR 62466).

III. EPA Standards

The SDWA, as amended in 1996, requires EPA to publish an NPDWR that specifies either an MCL or a treatment technique requirement for contaminants that may ''have an adverse effect on the health of persons,'' are ''known to occur or [have] a substantial likelihood [of occurring] in public water systems with a frequency and at levels of public health concern,'' and for which ''regulation * * * presents a meaningful opportunity for health risk reduction for persons served by public water systems '' (SDWA Section 1412(b)(1)(A)). The SDWA (Section 300g-1(a)(3)) also requires that EPA promulgate MCLG's at the time that it promulgates NPDWR's. MCLG's are nonenforceable health goals that are based solely on considerations of protecting the public from the adverse health effects of contaminants, and not on other considerations, such as potential costs of regulating contaminants and potential technical difficulties of achieving the health goals (59 FR 38668 at 38671). EPA sets MCL's, the enforceable contaminant levels, as close as feasible to the nonenforceable MCLG's.

In its proposed rule on disinfectants and DBP's (59 FR 38668), EPA also introduced the concept of MRDL's and MRDLG's. MRDL's and MRDLG's are comparable to MCL's and MCLG's, in that they set contaminant levels and health goals. EPA used the terms MRDL and MRDLG for disinfectants, rather than using the terms MCL and MCLG, to reflect the fact that disinfectants have beneficial properties and are intentionally added to drinking water to kill disease-causing organisms (63 FR 69390 at 69398; 59 FR 38668 at 38672, 38679).

In the Stage I DBPR (63 FR 69390 at 69396), EPA established an MCL of 0.060 milligram per liter (mg/L) for the total of the five haloacetic acids that make up HAA5 (i.e., mono-, di-, and trichloroacetic acid, and mono- and dibromoacetic acid). EPA also reduced the existing MCL for TTHM from 0.10 mg/L to 0.080 mg/L (63 FR 69390 at 69396). EPA also established MCL's for two inorganic DBP's: 0.010 mg/L for

bromate and 1.0 mg/L for chlorite (63 FR 69390 at 69396). Finally, EPA established MRDL's for three disinfectants: 4.0 mg/L (as Cl_2) for chlorine, 4.0 mg/L (as Cl_2) for chloramine, and 0.8 mg/L (as ClO_2) for chlorine dioxide (63 FR 69390 at 69396).

IV. FDA Standards

A. The Agency's Approach to the Bottled Water Quality Standards Established Under Section 410 of the Act.

Under section 401 of the act (21 U.S.C. 341), the agency may issue a regulation establishing a standard of quality for a food under its common or usual name, when in the judgment of the Secretary of Health and Human Services such action will promote honesty and fair dealing in the interest of consumers. On November 26, 1973 (38 FR 32558), FDA established a quality standard for bottled water that is set forth in § 165.110 (21 CFR 165.110).

Producers of bottled water are responsible for assuring, through appropriate manufacturing techniques and sufficient quality control procedures, that all bottled water products introduced or delivered for introduction into interstate commerce comply with the quality standard (§ 165.110(b)). Bottled water that is of a quality that is below the prescribed standard is required by § 165.110(c) to be labeled with a statement of substandard quality. Moreover, any bottled water containing a substance at a level that causes the food to be adulterated under section 402(a)(1) of the act (21 U.S.C. 342(a)(1)) is subject to regulatory action, even if the bottled water bears a label statement of substandard quality.

FDA has traditionally fulfilled its obligation under section 410 of the act to respond to EPA's issuance of NPDWR's by amending the quality standard regulations for bottled water introduced or delivered for introduction into interstate commerce to maintain compatibility with EPA's drinking water regulations. In general, FDA believes that, with few exceptions, EPA standards for contaminants in drinking water are appropriate as allowable levels for contaminants in the quality standard for bottled water when bottled water may be expected to contain the same contaminants.

FDA generally has not duplicated the efforts of EPA in judging the adequacy of MCL's or treatment techniques in NPDWR's for contaminants when determining their applicability to bottled water in order to protect the public health. FDA believes that, in general, it would be redundant for FDA to reevaluate the drinking water standards prescribed by EPA. Further, because bottled water is increasingly used in some households as a replacement for tap water, consumption patterns considered by EPA for tap water can be used as an estimate for the maximum expected consumption of bottled water by some individuals. Therefore, FDA's view is that generally in cases where bottled water is subject to the same contaminants as tap water, FDA should establish standard of quality levels in bottled water at the same levels that EPA establishes as MCL's for such contaminants in tap water.

In its proposed rule on disinfectants and DBP's (59 FR 38668), EPA introduced the term MRDL. As explained in section III of this document, EPA used this term when it first proposed enforceable disinfectant levels (MRDL's) to reflect the fact that disinfectants have beneficial properties. However, disinfectants may have adverse health effects (59 FR 38668 at 38679 to 38694), and they may be expected to be in some source waters used for bottled water. Therefore, FDA is establishing a standard of quality for these disinfectants for bottled water in response to EPA's issuance of NPDWR's for these disinfectants in drinking water.

B. Quality Standard for Disinfectants and DBP's

The quality standard for bottled water, as set forth in § 165.110(b)(4)(i)(A), prescribes that bottled water shall not contain TTHM in excess of 0.10 mg/L. It does not, however, prescribe allowable levels for bromate, chlorite, HAA5, chloramine, chlorine, or chlorine dioxide in bottled water.

FDA has evaluated the MRDL's for chloramine, chlorine, and chlorine dioxide, and the MCL's for bromate, chlorite, HAA5, and TTHM that EPA has established for drinking water. Further, FDA has concluded that EPA's MRDL's and MCL's for these contaminants, as standard of quality levels for bottled water, are adequate for the protection of the public health. Certain waters used for bottled drinking water may be expected to contain these contaminants; thus, adopting allowable levels for these contaminants will ensure that the quality of bottled water is comparable to the quality of public drinking water that meets EPA standards.

Therefore, FDA is establishing in a new paragraph (b)(4)(iii)(H) in § 165.110, allowable levels for the following disinfectants and DBP's: chloramine at 4.0 mg/L (as Cl_2), chlorine at 4.0 mg/L (as Cl_2), chlorine dioxide at 0.8 mg/L (as ClO_2), and bromate at 0.010 mg/L, chlorite at 1.0 mg/L, HAA5 at 0.060 mg/L, and TTHM at 0.080 mg/L. FDA is removing the existing entry for TTHM in § 165.110(b)(4)(i)(A).

C. Analytical Methods

In the Stage 1 DBPR that established MCL's for bromate, chlorite, HAA5, and TTHM and MRDL's for chlorine, chloramine, and chlorine dioxide, EPA stipulated that analyses for determining compliance with the MCL's and MRDL's shall be performed by approved analytical methods (63 FR 69390 at 69466). EPA has approved one method for bromate monitoring, two methods for monthly chlorite monitoring, three methods for HAA5 monitoring, three methods for TTHM monitoring, six methods for chloramine monitoring, seven methods for chlorine monitoring, and two methods for chlorine dioxide monitoring. Therefore, in a new paragraph (b)(4)(iii)(I) in § 165.110, FDA is incorporating by reference the 24 analytical methods cited by the EPA (63 FR 69390 at 69417) for determining the levels of these contaminants in bottled water.

D. Monitoring Provisions of CGMP Regulations for Bottled Water

FDA has established CGMP regulations for bottled water in part 129. Under § 129.35(a)(3)(i), source water must be analyzed by the plant as often as necessary, but at least annually for chemical contaminants. Further, to ensure that a plant's production complies with applicable standards, § 129.80(g)(2) requires analysis by the plant, at least annually, of a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The CGMP regulation in § 129.80(a) also requires sampling and analysis, as often as necessary, of product water taken after processing but before bottling, to assure uniformity and effectiveness of the processes performed by the plant.

Disinfectants and DBP's are special types of contaminants in that they result from the deliberate addition of disinfectants to water to control microbial contamination. Because public water systems add disinfectants to water, FDA expects that source water from public water systems will contain disinfectants and DBP's. Therefore, FDA is requiring bottlers who obtain their source water from public water systems to test that water, as specified in § 129.35(a)(3)(i), for the disinfectants

chloramine, chlorine, and chlorine dioxide, and the DBP's bromate, chlorite, HAA5, and TTHM, unless they meet the requirements contained in § 129.35(a)(4)(i). In some cases, bottlers disinfect source water that is not from public water systems (e.g., prior to bulk transportation of that source water to the bottling plant). Such source water would contain residual disinfectants and also may contain DBP's. Therefore, FDA is adding a new paragraph (a)(4)(iii) in § 129.35, stating that firms that do not use a public water system as the source of their water and whose source water has not been treated with a chlorine-based disinfectant or ozone do not have to test their source water for the residual disinfectants and DBP's listed in § 165.110(b)(4)(iii)(H). Firms that do not use a public water system as the source of their water but whose source water has been treated with a chlorine-based disinfectant or ozone must test their source water for the residual disinfectants and the DBP's listed in § 165.110(b)(4)(iii)(H) that are likely to result from such treatment. Treatment of water with ozone is expected to produce the disinfection byproducts (or components of the disinfection byproducts) bromate, HAA5, and TTHM. Treatment of water with chlorine or chloramine is expected to produce the disinfection byproducts (or components of the disinfection byproducts) HAA5 and TTHM.

However, all bottlers, whether or not they obtain their source water from public or nonpublic drinking water sources and whether or not they treat their water with chlorine, chloramine, chlorine dioxide, or ozone, are required to test for the residual disinfectants chloramine, chlorine, and chlorine dioxide and the DBP's bromate, chlorite, HAA5, and TTHM in their finished bottled water products under § 129.80(g)(2) in the CGMP regulations for bottled water. FDA believes that the potential for the presence of disinfectants and DBP's in the finished bottled water product exists. For example, some manufacturers may treat their water with a disinfectant during processing. Further, contamination of the bottled water product with disinfectants may occur during the manufacturing process, for example, if poor manufacturing practices are followed, such as inadequate rinsing of equipment that has undergone sanitizing operations. Section 129.80(d) in the CGMP regulations for bottled water allows for the use of disinfectants (ozone and chlorine-based disinfectants) for sanitizing operations.

Bottled water must comply with the sampling and testing requirements for disinfectants and DBP's under § 129.80(g)(2). In addition, bottled water must comply with the allowable levels for the disinfectants and DBP's in the quality standard for bottled water (§ 165.110 (b)) unless the label bears a statement of substandard quality under § 165.110(c). As stated in § 165.110(d), bottled water is deemed to be adulterated if it contains a substance at a level considered injurious to health under section 402(a)(1) of the act.

V. Environmental Impact

The agency has determined under 21 CFR 25.32(a) and 25.30(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Economic Impact

A. Regulatory Impact Analysis

FDA has examined the economic implications of this direct final rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, public safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of $100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation is also considered a significant regulatory action if it raises novel legal or policy issues. FDA has determined that this direct final rule is not a significant regulatory action as defined by Executive Order 12866.

1. The Need for Regulation

In the **Federal Register** of December 16, 1998 (63 FR 69390), EPA published a final rule issuing NPDWR's consisting of MRDL's for the disinfectants chlorine, chloramine, and chlorine dioxide; and MCL's for the DBP's bromate, chlorite, HAA5, and TTHM. Under section 410 of the act, when EPA issues a regulation establishing an MCL for a contaminant in public drinking water, FDA is required to issue a standard of quality regulation for that contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health. FDA's standard of quality regulations must also include appropriate monitoring requirements. If FDA does not issue a standard of quality regulation by 180 days before the effective date of EPA's NPDWR's, the NPDWR's become applicable to bottled water.

In the following analysis, FDA finds that issuing standard of quality regulations and monitoring requirements for these residual disinfectants and DBP's under FDA bottled water CGMP regulations has the highest net benefits. FDA's testing requirements are less costly than the testing requirements under our assumptions of how EPA NPDWR's would apply to bottled water, with the same health benefits, and the health benefits of testing for these contaminants outweigh the cost.

2. Cost of the Regulation

If FDA does not establish a regulation for quality standards for these residual disinfectants and DBP's, bottled water producers would be subject to NPDWR testing and monitoring requirements for these contaminants. Therefore, we consider this possibility the baseline for the purposes of this analysis. Also, we assume that the regulatory options we consider will have no organoleptic effect on the final bottled water product, and thus no impact on sales due to product quality, so the cost of the regulation will be limited to the direct cost of testing, record keeping, and possible disinfection technology investment.

Bottled water producers market their products based on meeting government safety testing requirements. However, any change in sales resulting from successful marketing either transfers revenue from one producer to another with no net loss to society, or causes increased sales of bottled water, which would mitigate the cost of this regulatory effort.

FDA considers three options for this analysis:

(1) FDA does not establish residual disinfectant and DBP quality standard regulations or make a finding that they are not necessary to protect the public health because these contaminants are not used in water used for bottled drinking water. Bottled water producers would be subject to the requirements set forth in the NPDWR's for these contaminants.

(2) FDA establishes residual disinfectant and DBP quality standard regulations. For these contaminants, bottled water producers would be subject to allowable levels in 21 CFR § 165.110 and CGMP monitoring

requirements in part 129, as modified in this direct final rule.

(3) Bottled water producers are not subject to either FDA quality standard regulations or EPA NPDWR's for these residual disinfectants and DBP's.

Regarding option 3, because it is not the case that these contaminants are contained in water used in public drinking water systems, but not in water used for bottled water, section 410(b)(1) of the Federal Food, Drug, and Cosmetic Act does not permit this option. The act specifies two alternatives: ''promulgate a standard of quality regulation under this subsection,'' or find that ''such a regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems * * * but not in water used for bottled drinking water.''

However, the Office of Management and Budget (OMB) cost-benefit analysis guidelines recommend discussing statutory requirements that affect the selection of regulatory approaches. These guidelines also recommend analyzing the opportunity cost of legal constraints that may prevent the selection of the regulatory action that best satisfies the philosophy and principles of Executive Order 12866. Our analysis finds that option 3 does not have the highest net benefits, therefore, even if option 3 were permissible, the statute does not preclude the option with the highest net benefits.

a. *Testing costs*. Option 3 is the least cost option. If producers are not subject to any disinfectant residual and DBP regulations, bottled water firms incur no additional costs. Firms already test for TTHM under the CGMP regulations, so the new lower bound of the TTHM test should cause only a small increase in cost per plant. However, the TTHM frequency differences still affect the choice between options 1 and 2, so we include TTHM testing in the analysis.

We assume the following testing frequency and requirements under option 1. This option considers the cost if bottled water facilities were subject to EPA NPDWR's by interpreting how such requirements may apply to bottled water facilities. EPA bases testing frequencies for public water systems on the size of the population served by the treatment plant. Since bottled water plants do not fall into the size and type categories established in the 1998 Stage 1 DBPR regulations, for the purposes of this analysis, we assume that all bottled water facilities would be regulated as if they were a small ground water treatment system. This is the smallest category identified in the 1998 Stage 1 DBPR analysis.

EPA regulations also provide two testing process exemptions. If a public water system does not use ozone for oxidation or disinfection, then EPA does not require a bromate test; and if a public water system does not use chlorine dioxide for oxidation or disinfection, then EPA requires neither a chlorine dioxide nor a chlorite test. All plants have to test for HAA5, TTHM, chlorine, and chloramine regardless of disinfection method. For this analysis, the bottled water industry would be subject to the following monitoring:

i. TTHM and HAA5: One test per plant per year, decreasing to one test per 3 years in the event of 1 or 2 years of very low levels of both TTHM and HAA5.

ii. Chlorite: A three-sample set per month only for plants using chlorine dioxide as a disinfectant. Reduced to a three-sample set per quarter if low levels of chlorites found in routine monitoring in a 1-year period.

iii. Bromate: One test per month only for plants using ozone for oxidation or disinfection. Reduced to one test per quarter if average water bromide is low, based on 1-year average of monthly samples.

iv. Chlorine and Chloramine: One test per plant per month. Monitoring may not be reduced.

v. Chlorine Dioxide: One test per day, at the distribution system entrance, only for plants using chlorine dioxide as a disinfectant. Monitoring may not be reduced.

Because few bottled water facilities use chlorine dioxide for disinfection, we assume that they all will qualify for the chlorite testing exemption. For the HAA5 and TTHM frequency requirements, we assume that one-third of the plants will qualify for the frequency reductions after 1 year, one-third will qualify for the reductions after 2 years, and one-third will continue to have to test once yearly. Finally, we assume that no bottled water facility will qualify for the bromate testing exemption, but that half of the plants will qualify for lower frequency testing under option 1.

For option 2, under 21 CFR § 129.35(a)(3), bottled water producers are required to test their source water for contaminants at least once per year unless exempted from such testing under § 129.35(a)(4). For example, bottled water facilities that use a public water source already subject to EPA regulations may substitute public water system testing results for source water testing. We assume that no facilities that use a public water source will need to test their source water for residual disinfectants and DBP's. Bottled water manufacturers that do not use a public water system as the source of their water and whose source water has not been treated with a chlorine-based disinfectant or ozone do not have to test their source water for these disinfectants and the DBP's likely to result from such treatment. Manufacturers that do not use a public water system as the source of their water but whose source water has been treated with a chlorine-based disinfectant or ozone must test their source water for the residual disinfectants and the DBP's likely to result from such treatment. For example, some source water may be disinfected if it is transported across large distances prior to entering the bottled water plant. We assume in this analysis (explained below) that 75 percent of bottled water producers use nonpublic sources. Of these, we assume that one-third of bottled water producers using nonpublic water will need to test their source water. All bottled water producers are required to test their final bottled water product for contaminants at least once per year under § 129.80(g)(2).

Table 1 of this document contains the required annual testing frequencies for source and final product water for the four types of DBP's and three disinfectants under options 1 and 2. For this table, we split option 2 into 2a and 2b, referring to whether or not the facility uses a public water source. This table is for ''year 1'' testing; under our assumptions no firm has yet qualified for less frequent testing requirements under option 1. We assume that facilities will perform separate tests for free chlorine and combined chlorine (which detects chloramine) and that all facilities use ozone for oxidation or disinfection. Under option 2a, all facilities must perform at least one final product test annually, and 25 percent (one-third of the 75 percent of the facilities using a nonpublic water source) of facilities must perform an annual source water test, for an average of 1.25 tests per facility.

TABLE 1.—ANNUAL AVERAGE PLANT TESTING FREQUENCY[1]

Test	Option 1 NPDWR's Apply	Option 2a CGMP Regulations Apply (Nonpublic Source Water)	Option 2b CGMP Regulations Apply (Public Source Water)
Bromate	12	1.25	1
Chlorite	0	1.25	1
TTHM	1	1.25	1
HAA5	1	1.25	1
Chorine	12	1.25	1
Chloramine	12	1.25	1
Chlorine Dioxide	0	1.25	1

The cost estimates in table 2 of this document include labor, and are the same testing costs EPA used for the 1998 Stage 1 DBPR impact analysis (Ref. 1). FDA also collected other testing cost estimates (Ref. 2); the EPA testing costs generally are in the high end of the range of the estimates we collected. FDA considers EPA's cost estimates reliable for this analysis. FDA believes it likely that a bottled water plant would be able to test for these substances at a cost close to this range. However, we do not define ''likely'' in any statistical sense. We examine the sensitivity of our final results to sample testing cost estimates.

TABLE 2.—ESTIMATED COST PER TEST

Test	Cost (Dollars)
Bromate	100
Chlorite	125
TTHM	100
HAA5	200
Chlorine	20
Chloramine	20
Chlorine Dioxide	20

Table 3 of this document presents annual testing costs. Both option 2a and 2b cost estimates are considerably lower than option 1 (year 1) estimates for a typical bottled water plant, due to the less frequent required testing for bromate, chlorine, and chloramine.

TABLE 3.—ANNUAL PLANT TESTING COSTS (DOLLARS)

Test	Option 1 NPDWR's Apply	Option 2a CGMP Regulations Apply (Nonpublic Source Water)	Option 2b CGMP Regulations Apply (Public Source Water)
Bromate	1,200	125	100
Chlorite	0	156.25	125
TTHM	100	125	100
HAA5	200	250	200
Chlorine	240	25	20
Chloramine	240	25	20
Chlorine Dioxide	0	25	20
Total	1,980	731.25	585

Table 4 of this document applies these totals and assumptions to the structure of the bottled water industry. We also recombine options 2a and 2b in table 4. Approximately 1,550 plants produce bottled water (63 FR 25764, May 11, 1998). According to another database search conducted for this analysis, the industry contains only 914 plants that would be subject to these rules, but the current count may not include bottled water services to business. Because of this uncertainty, we estimate totals for both 914 and 1,550 plants. This affects neither the relative ranking of options nor the sensitivity analysis.

About 25 percent of bottled water products sold are produced by facilities that use public source water. Based on this, FDA assumes that 25 percent of bottled water plants use public source water, and that 75 percent use nonpublic sources (mostly ground water.) For ease of computation, table 4 of this document also assumes an equal distribution of the once per 3-year cost across later years, so one-third of the TTHM and HAA5 cost is incurred in any one year for plants meeting the less frequent testing requirements under option 1.

TABLE 4.—TOTAL COST TO INDUSTRY (IN DOLLARS, ASSUMING 1,550 PLANTS)

Year	2002	2003	2004	2005
Option 2 (a and b)	1,076,766	1,076,766	1,076,766	1,076,766
Option 1	3,069,000	2,268,167	2,164,833	2,164,833

Assuming a 7 percent discount rate and no relative testing cost increases, the present (year 2001) value costs of the testing regimes are $18,787,984 (914 plants) to $31,861,461 (1,550 plants) under option 1 and $9,070,634 (914 plants) to $15,382,366 (1,550 plants) under option 2.

FDA ran a rough sensitivity analysis to determine how the range of testing costs, exemptions, and frequency assumptions affected the relative cost of options 1 and 2. This is a break-even analysis, which identifies how much the costs or assumptions would have to change in order to alter our conclusions.

(1) Testing costs; the major components of the higher option 1 cost are bromate, chlorine, and chloramine testing requirements. Even if bromate testing cost dropped to zero, option 1 cost would still be higher than option 2. If chorine and chloramine testing costs dropped to zero, and the cost of testing a water sample for bromate dropped from $100 to $52 (or if only 52 percent of bottled water plants have to test for bromate), the cost of options 1 and 2 would be roughly the same. This is in the range of the lowest bromate testing cost estimates collected by FDA (Ref. 2). TTHM and HAA5 testing costs do not have a significant impact on the relative cost of the options.

(2) Frequency and requirement exemptions; even if all bottled water plants qualified for less frequent bromate, TTHM, and HAA5 testing, option 1 costs would still be higher than option 2 costs.

(3) Discount rate; since option 2 costs, under the original assumptions, were lower for every year, the option ranking is not affected by the choice of the discount rate.

FDA concludes that under the most likely assumptions and in a wide range around those assumptions, testing costs under option 1 exceed those under option 2.

b. *Recordkeeping costs*. Bottled water producers already must follow FDA CGMP requirements for other contaminants, so option two recordkeeping requirements may be lower in cost than option 1. Firms have sufficient experience with recordkeeping, so we believe that any cost differences are minimal.

c. *Residual disinfectants and DBP control costs*. The 1998 Stage I DBPR impact analysis estimated costs for public water systems to come into compliance if a test found unacceptable residual disinfectant or DBP levels. However, bottled water producers differ from public water suppliers in two ways. First, we assume one-fourth of bottled water producers use source water already subject to EPA regulations. For the purposes of this analysis, we assume they will not have to adopt any costly technology to come into compliance. Second, almost all producers who do not use public water systems for their source water use ground water. In the 1998 Stage I DBPR analysis, EPA estimated that only 12 percent of small ground water facilities will have to adopt new disinfection technology in order to avoid excessive residual disinfectants or DBP's. FDA considers this a high estimate of the number of bottled water plants that may need to adopt new technology, because these plants do not use as many different types of disinfectants. Therefore, at most only 9 percent (0.75 x 0.12) of bottled water plants may have to adopt new technology. FDA cannot discriminate between the EPA and FDA testing regimes under options 1 and 2 in terms of the degree to which they will require new disinfection technology in bottled water plants. Once again, no standards will guarantee that producers will not have to invest in new compliance technology, so option 3 would have the lowest cost.

3. Benefits of the Regulation

In this case, FDA assumes that both option 1 and option 2 adequately protect the health of the public. FDA cannot discriminate between options 1 and 2 in terms of their ability to guarantee the absence of residual disinfectants and DBP's in bottled water. Option 3 is the lowest cost, but in the 1998 Stage 1 DBPR analysis, EPA concluded that testing for these substances in water destined for human consumption has net positive benefits (63 FR 69390, December 16, 1998). Water used by bottled water producers, from both public and nonpublic sources, may need some manner of disinfection, so we believe the economic argument from the Stage 1 DBPR analysis applies equally well to bottled water. We do not estimate the number of illnesses avoided under these different testing options.

4. Net Benefits

Option 2 has lower testing costs and may have lower record-keeping costs than option 1, and protects the health of the public at least as well as option 1. Option 2 also has higher net benefits than option 3, since the Stage 1 DBPR conclusion that testing for these substances has net positive benefits applies equally well to bottled water. Therefore, option 2, where FDA issues standard of quality regulations for these residual disinfectants and DBP's under part 165 and where the monitoring requirements in part 129 apply, has the highest net benefits.

B. Small Entity Analysis

Under Section 603(a) of the Regulatory Flexibility Act (RFA), for any proposed rule for which the agency is required by section 553 of the Administrative Procedure Act or any other law to publish a general notice of proposed rulemaking, the agency is required to analyze regulatory options that would minimize any significant impact of a rule on small entities. The agency has published, in the companion proposed rule published elsewhere in this **Federal Register**, an initial regulatory flexibility analysis. Because the companion proposed rule is a proposed rule for which a general notice of proposed rulemaking is required, and therefore, is subject to the Regulatory Flexibility Act, the agency will consider any comments it receives on the initial regulatory flexibility analysis in the companion proposed rule when deciding whether to withdraw this direct final rule.

FDA has examined the economic implications of this direct final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities. FDA finds that this rule would have a significant economic impact on a substantial number of small entities.

This rule would have an impact on small entities, but that impact would not be large. In addition, option 2 in the

impact analysis is more flexible and has a smaller testing frequency burden than the NPDWR requirements for drinking water under option 1, therefore lowering the impact of this rule on small businesses while still protecting the public health. FDA also believes that adopting residual disinfectant and DBP standards yields net positive benefits regardless of the size of the bottled water facility, so option 2 in the impact analysis is more appropriate than option 3 for small businesses.

FDA also believes that the flexibility allowed in source testing requirements under option 2 in the impact analysis is the maximum amount of flexibility possible in this regulation. FDA is not establishing exemptions for final product testing since there is a need to test for these disinfectant residuals and DBP's: bottled water producers use these disinfectants, residual disinfectants and DBP's may be present in both public and nonpublic source water, and disinfectants may be used for equipment or other sanitation in any bottled water plant under CGMP regulations.

According to the latest database search across the bottled water industry mentioned above, approximately 72 percent of firms qualify as small by Small Business Administration (SBA) standards. Assuming the same exemptions and frequency requirements, the yearly average cost per plant for both small and large entities is between $585 (public source) and $731 (nonpublic source) for firms under the FDA requirements in option 2 in the impact analysis, and between $1,397 (year 3) and $1,980 (year 1) for the NPDWR requirements in option 1. We assume that almost all small entities in the bottled water industry are single plant firms. Although FDA does consider the option 2 higher cost of $731 per plant per year a significant impact for small firms, this number represents 0.13 percent of the $580,000 annual revenue of the median small bottled water firm.

C. Unfunded Mandate

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4), requiring cost-benefit and other analyses, in section 1531 (a) defines a significant rule as ''a Federal mandate that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any 1 year.'' FDA has determined that this proposed rule does not constitute a significant rule under the Unfunded Mandates Reform Act.

VII. Paperwork Reduction Act

FDA tentatively concludes that this final rule contains no collections of information. Therefore, clearance by the OMB under the Paperwork Reduction Act of 1995 is not required.

VIII. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

IX. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this direct final rule on or before June 11, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

X. Effective Date

The agency intends to make the direct final rule effective January 1, 2002. The agency will publish a confirmation notice for the direct final rule in the **Federal Register** no later than 180 days before the effective date. The agency is providing 180 days before the effective date to permit affected firms adequate time to take appropriate steps to bring their product into compliance with the standard imposed by the new rule.

XI. References

1. U.S. EPA, Regulatory Impact Analysis of Final Disinfectant/Disinfection By-Products Regulations, Washington, DC, app. E, pp. E–4 and E–5, EPA 815–B–98–002, PB 99–111304, 1998.

2. Memorandum from Dominic Mancini to the record, March 13, 2001.

List of Subjects

21 CFR Part 129

Beverages, Bottled water, Food packaging, Reporting and recordkeeping requirements.

21 CFR part 165

Beverages, Bottled water, Food grades and standards, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 129 and 165 are amended as follows:

PART 129—PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER

1. The authority citation for 21 CFR part 129 continues to read as follows:

Authority: 21 U.S.C. 342, 348, 371, 374; 42 U.S.C. 264.

2. Section 129.35 is amended by redesignating paragraph (a)(4)(iii) as paragraph (a)(4)(iv) and by adding new paragraph (a)(4)(iii) to read as follows:

§ 129.35 Sanitary facilities.

* * * * *

(a) * * *

(4) * * *

(iii) Firms that do not use a public water system as the source of their water and whose source water has not been treated with a chlorine-based disinfectant or ozone do not have to test their source water for the residual disinfectants and DBP's listed in § 165.110(b)(4)(iii)(H) of this chapter. Firms that do not use a public water system as the source of their water but whose source water has been treated with a chlorine-based disinfectant or ozone must test their source water for the residual disinfectants and the DBP's listed in § 165.110(b)(4)(iii)(H) that are likely to result from such treatment.

* * * * *

PART 165—BEVERAGES

1. The authority citation for 21 CFR part 165 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 343-l, 348, 349, 371, 379e.

2. Section 165.110 is amended by revising paragraph (b)(1)(ii); by adding paragraphs (b)(1)(iii), (b)(4)(iii)(H), and (b)(4)(iii)(I); and in the table in paragraph (b)(4)(i)(A) by removing the entry for ''Organics: Total Trihalomethanes'' to read as follows:

§ 165.110 Bottled water.

* * * * *

(b) * * *

(1) * * *

(ii) *Total trihalomethanes* (TTHM) means the sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane, dibromochloromethane,

bromodichloromethane, and tribromomethane), rounded to three significant figures.

(iii) *Haloacetic acids* (five) (HAA5) means the sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

(4) * * *

(iii) * * *

(H) The allowable levels for residual disinfectants and disinfection byproducts are as follows:

Substance	Concentration in milligrams per liter
Disinfection byproducts	
Bromate	0.010
Chlorite	1.0
Haloacetic acids (five) (HAA5)	0.060
Total Trihalomethanes (TTHM)	0.080
Residual disinfectants	
Chloramine	4.0 (as Cl_2)
Chlorine	4.0 (as Cl_2)
Chlorine dioxide	0.8 (as ClO_2)

(I) Analysis to determine compliance with the requirements of paragraph (b)(4)(iii)(H) of this section shall be conducted in accordance with an applicable method listed in paragraphs (b)(4)(iii)(I)(*1*) through (b)(4)(iii)(I)(*7*) of this section and described in ''Method 300.1, Determination of Inorganic Anions in Drinking Water by Ion Chromatography,'' Rev. 1.0, U.S. EPA, 1997, EPA/600/R–98/118; ''Methods for the Determination of Inorganic Substances in Environmental Samples,'' U.S. EPA, August 1993, EPA/600/R–93/100; ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement II,'' U.S. EPA, August 1992, EPA/600/R–92/129; ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1995, EPA/600/R–95/131; ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., American Public Health Association, 1995; and ''Annual Book of ASTM Standards,'' vol. 11.01, American Society for Testing and Materials, 1996, which are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the following publications are available from the National Technical Information Service (NTIS): EPA/600/R–95/131 (NTIS number PB95–261616), EPA/600/R–92/129 (NTIS number PB92–207703), EPA/600/R–93/100 (NTIS number PB94–121811), and EPA/600/R–98/118 (NTIS number PB98–169196). NTIS can be contacted at NTIS, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161, 1–800–553–6847 or 703–605–6000, www.ntis.gov. Copies of the publication EPA/600/R–98/118 are also available from the Chemical Exposure Research Branch, Microbiological and Chemical Exposure Assessment Research Division, National Exposure Research Laboratory, U.S. EPA, Cincinnati, OH 45268, 513–569–7757, (FAX) 513–569–7757. Copies of ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., are available from the American Public Health Association, 1015 15th Street, NW., Washington, DC 20005. All of the publications cited in paragraph (b)(4)(iii)(I) of this section may be examined at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC, or at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., Washington, DC 20204. Copies of ''Annual Book of ASTM Standards,'' 1996, vol. 11.01, are available from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohoken, PA 19428, or may be examined at the Office of the Federal Register. Copies of the methods incorporated by reference in paragraph (b)(4)(iii)(I) of this section may also be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., Washington DC 20204.

(*1*) Bromate shall be measured using the following method: Method 300.1—''Determination of Inorganic Anions in Drinking Water by Ion Chromatography,'' Rev. 1.0, U.S. EPA, 1997, EPA/600/R–98/118, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*2*) Chlorite shall be measured using the following methods:

(*i*) Method 300.0—''Determination of Inorganic Anions by Ion Chromatography,'' Rev. 2.1. The revision is contained in the manual entitled ''Methods for the Determination of Inorganic Substances in Environmental Samples,'' U.S. EPA, August 1993, EPA/600/R–93/100, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 300.1—''Determination of Inorganic Anions in Drinking Water by Ion Chromatography,'' Rev. 1.0, U.S. EPA, 1997, EPA/600/R–98/118, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*3*) HAA5 shall be measured using the following methods:

(*i*) Method 552.1—''Determination of Haloacetic Acids and Dalapon in Drinking Water by Ion Exchange Liquid-Solid Extraction and Gas Chromatography with Electron Capture Detection,'' Rev. 1.0. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement II,'' U.S. EPA, August 1992, EPA/600/R–92/129, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 552.2—''Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-Liquid Extraction, Derivatization and Gas Chromatography with Electron Capture Detection,'' Rev. 1.0. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1993, EPA/600/R–95/131, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iii*) Method 6251 B—''Disinfection By-Products: Haloacetic Acids and Trichlorophenol,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*4*) TTHM shall be measured using the following methods:

(*i*) Method 502.2—''Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series,'' Rev. 2.1. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1993, EPA/600/R–95/131, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 524.2—''Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry,'' Rev. 1.0. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1993, EPA/600/R–95/131, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iii*) Method 551.1—''Determination of Chlorination Disinfection Byproducts, Chlorinated Solvents, and Halogenated Pesticides/Herbicides in Drinking Water by Liquid-Liquid Extraction and Gas Chromatography with Electron-Capture Detection,'' Rev. 1.0. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1993, EPA/600/R–95/131, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*5*) Compliance with the chloramine standard can be determined by measuring combined or total chlorine. The following methods shall be used to measure chloramine:

(*i*) ASTM Method D1253-86—'' Standard Test Method for Residual Chlorine in Water,'' which is contained in the book entitled ''Annual Book of ASTM Standards,'' 1996, vol. 11.01, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 4500-Cl D—''Amperometric Titration Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iii*) Method 4500-Cl F—''DPD Ferrous Titrimetric Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iv*) Method 4500-Cl G—''DPD Colorimetric Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*v*) Method 4500-Cl E—''Low-Level Amperometric Titration Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*vi*) Method 4500-Cl I—''Iodometric Electrode Technique,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*6*) Compliance with the chlorine standard can be determined by measuring free or total chlorine. The following methods shall be used to measure chlorine:

(*i*) ASTM Method D1253-86—''Standard Test Method for Residual Chlorine in Water,'' which is contained in the book entitled ''Annual Book of ASTM Standards,'' 1996, vol. 11.01, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 4500-Cl D—''Amperometric Titration Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iii*) Method 4500-Cl F—''DPD Ferrous Titrimetric Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iv*) Method 4500-Cl G—''DPD Colorimetric Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*v*) Method 4500-Cl E—''Low-Level Amperometric Titration Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*vi*) Method 4500-Cl I—''Iodometric Electrode Technique,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*vii*) Method 4500-Cl H—''Syringaldazine (FACTS) Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*7*) Chlorine dioxide shall be measured using the following methods:

(*i*) Method 4500-ClO_2 D—''DPD Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by

reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 4500-ClO_2E—''Amperometric Method II,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

* * * * *

Dated: March 20, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–7561 Filed 3–23–01; 3:50 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 989

Environmental Impact Analysis Process (EIAP); Correction

AGENCY: Department of the Air Force, DoD.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final rule that was published in the **Federal Register** of Thursday, July 15, 1999 (64 FR 38127). The rule related to the Air Force process for compliance with the National Environmental Policy Act (NEPA) and Executive Order (E.O.) 12114, Environmental Effects Abroad of Major Federal Actions.

EFFECTIVE DATE: March 26, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Bush (HQ USAF/ILEB), 1260 Air Force Pentagon, Washington, DC 20330–1260, (703) 604–0553.

SUPPLEMENTARY INFORMATION:

Background

The final rule that is the subject of these corrections integrated environmental analysis and aligned environmental document approval levels with the Air Force decision-making process. It also expanded Air Force environmental participants and responsibilities of the Environmental Planning Function (EPF) and the proponent of an action.

Need for Correction

As published, the final rule contains minor errors that need to be corrected.

List of Subjects in 32 CFR Part 989

Environmental protection, Environmental impact statements.

Accordingly, 32 CFR Part 989 is corrected by making the following amendments:

PART 989—ENVIRONMENTAL IMPACT ANALYSIS PROCESS (EIAP)

1. The authority citation for Part 989 continues to read as follows:

Authority: 10 U.S.C. 8013.

§ 989.1 [Corrected]

2. In § 989.1, paragraph (a), in the last sentence, correct ''989.32 and 989.33'' to read ''989.37 and 989.38.''

3. In § 989.1, paragraph (b), in the second to last sentence, correct ''Department of Defense Regulation 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems'' to read ''Department of Defense Regulation 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs.''

§ 989.3 [Corrected]

4. In § 989.3, paragraph (a)(4)(i), correct ''Air Force Instruction (AFI) 35–205, Air Force Security and Policy Review'' to read ''Air Force Instruction (AFI) 35–101, Public Affairs Policies and Procedures.''

5. In § 989.3, paragraph (a)(4)(iii), correct ''AFI 35–202, Environmental Community Involvement'' to read ''AFI 35–101.''

6. In § 989.3, paragraph (c)(2)(iv), correct ''USAF/ILEVP'' to read ''USAF/ILEB.''

7. In § 989.3, paragraph (d)(7), second sentence, correct ''USAF/ILEV'' to read ''USAF/ILEB.''

8. In § 989.3, paragraph (h)(7), correct ''AFI 35–202'' to read ''AFI 35–101.''

§ 989.5 [Corrected]

9. In § 989.5, paragraph (d), correct ''USAF/ILEV'' to read ''USAF/ILEB.''

§ 989.12 [Corrected]

10. In § 989.12, remove the last sentence.

§ 989.13 [Corrected]

11. In § 989.13, paragraph (c), correct ''USAF/ILEV'' to read ''USAF/ILEB.''

§ 989.14 [Corrected]

12. In § 989.14, paragraph (g), remove the first sentence. In the second sentence correct ''through'' to read ''to,'' remove ''to HQ USAF/ILEVP,'' and correct ''is'' to read ''could be.''

13. In § 989.14, paragraph (h), correct ''HQ USAF/ILEVP'' to read ''HQ USAF/ILEB.''

14. In § 989.14, paragraph (i), correct ''HQ USAF/ILEVP'' to read ''HQ USAF/ILEB.''

15. In § 989.14, paragraph (j), correct ''HQ USAF/ILEVP'' to read ''HQ USAF/ILEB.''

§ 989.17 [Corrected]

16. In § 989.17, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

§ 989.18 [Corrected]

17. In § 989.18, paragraph (a), third to last sentence, correct ''AF/ILEV'' to read ''HQ USAF/ILEB.''

§ 989.19 [Corrected]

18. In § 989.19, paragraph (a), last sentence, correct ''USAF/ILEV'' to read ''HQ USAF/ILEB.''

19. In § 989.19, paragraph (b), correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB'' in the three places it appears.

20. In § 989.19, paragraph (c)(2), in the first and last sentences, correct ''Attachment 3'' to read, ''Appendix C to this part.'' In the fourth sentence, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.'' In the last sentence, correct ''HQ USAF/ILEVP'' to read ''HQ USAF/ILEB.''

§ 989.20 [Corrected]

21. In § 989.20, first and second sentences, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

§ 989.21 [Corrected]

22. In § 989.21, paragraph (a), first sentence, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

23. In § 989.21, paragraph (b), in the first sentence, correct ''989.23'' to read ''989.24.''

§ 989.22 [Corrected]

24. In § 989.22 (a), add a new second sentence after the first sentence to read as follows:

§ 989.22 Mitigation.

(a) * * * If using Best Management Practices (BMPs), identify the specific BMPs being used and include those BMPs in the mitigation plan. * * *

* * * * *

25. In § 989.22, paragraph (b), second to last sentence, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

26. In § 989.22, paragraph (d), last sentence, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

§ 989.29 [Corrected]

27. In § 989.29, correct ''HQ USAF/ILXB'' to read ''HQ USAF/ILEB.''

§ 989.32 [Corrected]

28. In § 989.32, in the fourth sentence, correct ''AFI 32–7063, Air Installation Compatible Use Zone'' to read ''AFI 32–7063, Air Installation Compatible Use Zone (AICUZ) Program.''

§ 989.34 [Corrected]

29. In § 989.34, paragraph (a), last sentence, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

30. In § 989.34, paragraph (b), third sentence, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

§ 989.35 [Corrected]

31. In § 989.35, paragraph (c), correct ''AFMAN 37–139, Records Disposition—Standards'' to read ''AFMAN 37–139, Records Disposition Schedule.''

§ 989.36 [Corrected]

32. In § 989.36, in the first sentence, correct ''instruction'' to read ''part.''

§ 989.38 [Corrected]

33. In § 989.38, paragraph (b), correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

34. In § 989.38, paragraph (c), correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

35. In § 989.38, paragraph (d), in the three places it appears, correct ''HQ USAF/ILEV'' to read ''HQ USAF/ILEB.''

Appendix A [Corrected]

36. In Appendix A, References, Executive Orders, add after the item ''Executive Order 11990, Protection of Wetlands, May 24, 1977'' the following new item—''Executive Order 12088, Federal Compliance with Pollution Control Standards.''

37. In Appendix A, References, U.S. Government Agency Publications, correct ''Department of Defense Regulation 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems,'' to read, ''Department of Defense Regulation 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs.''

38. In Appendix A, References, Air Force Publications, remove ''AFI 35–202, Environmental Community Involvement'' and ''AFI 35–205, Air Force Security and Policy Review Program,'' and add in their place ''AFI 35–101, Public Affairs Policies and Procedures.''

39. In Appendix A, References, Air Force Publications, correct ''AFMAN 37–139, Records Disposition—Standards'' to read ''AFMAN 37–139, Records Disposition Schedule.''

40. In Appendix A, Abbreviation and Acronyms, in the table add after the item ''ANGRC Air National Guard Readiness Center'' a new entry to read, ''BMP—Best Management Practice.''

41. In Appendix A, Terms, add as a new paragraph, before Description of Proposed Action and Alternatives (DOPAA), the following: ''Best Management Practices (BMPs)—Under the EIAP, BMPs should be applied in furtherance of 40 CFR 1508.22, Mitigations or to fulfill permit requirements (see also E.O. 12088, ''Federal Compliance with Pollution Control Standards).''

Appendix B [Corrected]

42. In Appendix B, paragraph A2.1, correct ''permits, state regulatory agency review of plans, and so on.'' to read ''permits, and state regulatory agency review of plans.''

43. In Appendix B, paragraph A2.3.19, in the first sentence, correct ''this attachment'' to read ''this Appendix.''

44. In Appendix B, paragraph A2.3.26, correct ''Defense Environmental Restoration Program (DERP)'' to read ''Environmental Restoration Account (ERA)—Air Force.''

Appendix C [Corrected]

45. In Appendix C, paragraph A3.1.3, last sentence, correct ''HQ USAF/ILEVP'' to read ''HQ USAF/ILEB.''

46. In Appendix C, paragraph A3.2.2.1, correct ''HQ USAF/CEV'' to read ''HQ USAF/ILEB.''

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–7671 Filed 3–27–01; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Juan 00–095]

RIN 2115–AA97

Safety Zone Regulations; Guayanilla Bay, Guayanilla, PR

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a moving and fixed safety zone around all vessels carrying Liquefied Natural Gas (LNG) as cargo in the waters of the Caribbean Sea in Guayanilla Bay, Puerto Rico. This precaution is required because of the size, draft and highly volatile cargo of LNG vessels. These regulations are necessary for the protection of life and property on the navigable waters of the United States.

DATES: This rule is effective April 27, 2001.

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 [COTP San Juan 00–095] 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 Commander Robert Lefevers at Coast Guard Marine Safety Office San Juan, Puerto Rico, (787) 706–2444.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On October 24, 2000, we published a notice of proposed rulemaking (NPRM) entitled: Safety Zone Regulations; Guayanilla Bay, Guayanilla, Puerto Rico, in the **Federal Register** (65 FR 63558). We received no letters commenting on the proposed rule. No public hearing was requested and none was held.

Background and Purpose

These regulations are needed to provide for the safety of life on navigable waters from hazards associated with LNG carriers. The safety zones are needed because of the significant dangers LNG vessels present with their highly volatile cargoes, their size, and draft. We anticipate periodic arrivals and departures of LNG carriers at the Eco-Electricia waterfront facility in Guayanilla Bay.

This rule establishes a moving safety zone in a 100 yard radius surrounding a vessel carrying LNG product while transiting north of Latitude 17°56.0′N on approach to or departure from the Eco-Electrica waterfront facility in Guayanilla Bay, Puerto Rico. This moving safety zone remains in effect until the LNG vessel is alongside the Eco-Electrica waterfront facility in

Guayanilla Bay, or south of Latitude 17°56.0′N. A fixed safety zone is established in the waters within 150 feet of a LNG vessel when the vessel is moored at the Eco-Electrica waterfront facility. This Safety Zone remains in effect while the LNG vessel is docked at the facility with product aboard or while the vessel is transferring liquefied natural gas.

Coast Guard Marine Safety Office San Juan will notify the maritime community of periods when the safety zone is in effect via a marine broadcast Notice to Mariners.

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 due to the relatively infrequent arrivals of LNG carriers and the limited commercial traffic in Guayanilla Bay.

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 and operators of vessels intending to transit a portion of Guayanilla Bay while a LNG vessel transits and docks at the Eco-Electrica facility.

This rule will not have a significant economic impact on a substantial number of small entities because of the relatively infrequent LNG vessel arrivals into Guayanilla Bay and the short transit time into the Bay. Vessel traffic will not be impeded while a LNG carrier is moored to the dock at the Eco-Electrica facility because vessel traffic can safely pass around the safety zone. We will also issue marine information broadcasts to the public in advance of LNG vessel arrivals and departures in Guayanilla Bay.

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 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 LCDR Robert Lefevers 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 165.755 is added to read as follows:

§ 165.755 Safety Zone; Guayanilla, Puerto Rico

(a) The following area is established as a safety zone during the specified conditions:

(1) A 100 yard radius surrounding a vessel carrying Liquefied Natural Gas (LNG) while transiting north of Latitude 17°56.0′N in the waters of the Caribbean Sea, on approach to or departure from the Eco-Electrica waterfront facility in Guayanilla Bay, Puerto Rico. The safety

zone remains in effect until the LNG vessel is docked at the Eco-Electrica waterfront facility or south of Latitude 17°56.0′N.

(2) The waters within 150 feet of a LNG vessel when the vessel is alongside the Eco-Electrica waterfront facility in Guayanilla Bay, at position 17°58.55′N, 066°45.3′W. This safety zone remains in effect while the LNG vessel is docked with product aboard or is transferring liquefied natural gas.

(b) In accordance with the general regulations in 165.23 of this part, anchoring, mooring or transiting in these zones is prohibited unless authorized by the Coast Guard Captain of the Port.

(c) The Coast Guard Marine Safety Office San Juan will notify the maritime community of periods during which the safety zones will be in effect by providing advance notice of scheduled arrivals and departures of LNG vessels via a marine broadcast Notice to Mariners.

Dated: March 15, 2001.

J.A. Servidio,

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

[FR Doc. 01–7624 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301107; FRL–6772–1]

RIN 2070–AB78

Coniothyrium minitans Strain CON/M/91–08; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the *Coniothyrium minitans* strain CON/M/91–08 on all food commodities when applied/used according to label instructions. Prophyta Biologischer Pflanzenschutz Gmbh submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Coniothyrium minitans* strain CON/M/91–08.

DATES: This regulation is effective March 28, 2001. Objections and requests for hearings, identified by docket control number OPP–301107, must be received by EPA, on or before May 29, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IX. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301107 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Susanne Cerrelli, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8077; and e-mail address: cerrelli.susanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations, '' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the '' **Federal Register** —Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http;//www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301107. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of January 24, 2000 (65 FR 3696) (FRL–6484–9), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), as amended by the Food Quality Protection Act (FQPA) (Public Law 104 –170) announcing the filing of a pesticide tolerance petition by Prophyta Biologischer Pflanzenschutz GmbH, Inselstrabe 12, D–23999 Malchow/Poel, Germany. This notice included a summary of the petition prepared by the petitioner Prophyta Biologischer Pflanzenschutz GmbH.

The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Coniothyrium minitans* strain CON/M/91–08. Three comments were received after close of the comment period which expressed support of this registration as an additional product for controlling white mold in snap beans.

III. Risk Assessment

New section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.... '' Additionally, section 408(b)(2)(D) requires that the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

IV. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Coniothyrium minitans is ubiquitous in the environment. This fungus was first described by Campbell (1947), after being isolated from sclerotia in California. A pesticide product containing *Coniothyrium minitans* strain CON/M/91–08 is currently registered in Germany and Switzerland. No toxicological or pathogenic effects by *C. minitans* in mammals have been reported in available public literature. Furthermore, Prophyta Biologischer Pflanzenschutz Gmbh has submitted several acute toxicity studies (eye, dermal, oral, and intraperitoneal) using a dose greater than 10^7 colony forming units (CFU) of *Coniothyrium minitans* strain CON/M/91–08, with no adverse effects being observed (NOAEL). In addition, certain biological characteristics of *Coniothyrium minitans* strain CON/M/91–08, which include, its temperature requirements for germination and mycelium growth, and its dependence on *Sclerotinia* as a host are further indications that this organism is not pathogenic to mammals. The *C. minitans* data submitted demonstrated no conidia germination at 30 °C or above, and no mycelium growth at 33 °C or above. Therefore, the use of this fungus does not appear to have any risk of adverse effects to mammals. A more detailed discussion of the data submitted in support of this tolerance exemption and the associated registration action as well as any data waivers that were granted by the Agency may be found in the Biopesticides Registration Action Document for *Coniothyrium minitans strain* CON/M/91–08, which has been placed in the official record for this action.

V. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food*. Dietary exposure is expected to be minimal because the microbial product is incorporated in the soil prior to planting or after harvest. Thus no increase in fungal exposure is anticipated. In addition, standard practices of washing, peeling, cooking, or processing fruits and vegetables will reduce residues of *Coniothyrium minitans* strain CON/M/91–08 and further minimize dietary exposure. The risk posed to adults, infants and children is likely to be minimal because of the low acute toxicity of the microbial pesticide and no reported cases in the literature of disease or injury to humans.

2. *Drinking water exposure*. A submitted study showed that the likelihood for *C. minitans* passage through a soil medium to ground water is minimal to none. Also, the survival of *C. minitans* in a municipal water treatment is unlikely. Furthermore, the results of the acute toxicity studies using a high dose of the fungus suggest there will not be any adverse effects to humans and there have been no reported cases in the literature of disease or injury to humans.

B. Other Non-Occupational Exposure

Coniothyrium minitans is a naturally-occurring fungus. Dermal and inhalation exposure to *C. minitans* pesticide product is expected to be limited to those who apply or handle the pesticide in an agricultural environment. Therefore, no other non-occupational exposure is expected.

VI. Cumulative Effects

No mechanism of toxicity in mammals has been identified for *Coniothyrium minitans* strain CON/M/91–08. Therefore no cumulative effect with other related organisms is anticipated. Because the data demonstrate low toxicity/pathogenicity potential of the active ingredient, the likelihood of adverse dietary or cumulative effects is expected to be minimal.

VII. Determination of Safety for U.S. Population, Infants and Children

Soil microorganisms, such as *C. minitans*, are naturally occurring and ubiquitous in the environment, with a highly probable, prior human exposure. Furthermore, the toxicity testing conducted by Prophyta Biologischer Pflanzenschutz Gmbh indicates an inability of the microbe to grow at or above 33 °C and a lack of potential toxic, pathogenic, allergic effects to humans. In addition, no potential for toxic or pathogenic effects of *C. minitans* to mammals including humans was reported in published literature. Further, there is no evidence which suggests that aggregate exposure of either adults or infants and children to *C. minitans* leads to any harm. Accordingly, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population or any significant subpopulation, including infants and children, to residues of *Coniothyrium minitans* strain CON/M/91–08. This includes all anticipated dietary

exposures and all other exposures for which there is reliable information.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base, unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety) are often referred to as uncertainty (safety) factors. In this instance, the Agency believes there is reliable data to support the conclusion that this microbial agent is practically non-toxic to mammals, including infants and children, and, thus, there are no threshold effects; therefore, EPA has not used a margin of exposure (safety) approach to assess the safety of *Coniothyrium minitans* strain CON/M/91–08. As a result, the provision requiring an additional margin of exposure (safety) does not apply.

VIII. Other Considerations

A. Endocrine Disruptors

Within the available scientific literature, there are no reports to suggest or indicate that *C. minitans* has the potential to cause an adverse effects on the endocrine and/or immune systems of animals.

B. Analytical Method

The Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation; therefore the Agency has concluded that an analytical method is not required for enforcement purposes for *Coniothyrium minitans* strain CON/M/91–08.

C. Codex Maximum Residue Level

There are no CODEX values for *Coniothyrium minitans* strain CON/M/91–08.

IX. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301107 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 29, 2001.

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

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

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

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

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

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit IX.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket number OPP–301107, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

X. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104 –4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. '' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XI. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: March 15, 2001.

Anne E. Lindsay,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.1213 is added to subpart D to read as follows:

§ 180.1213 Coniothyrium minitans strain CON/M/91–08; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the microbial pesticide *Coniothyrium minitans strain* CON/M/91–08 when used in or on all food commodities.

[FR Doc. 01–7645 Filed 3–27 –01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 42, 43, 61, 63, and 64

[IB Docket No. 00–202, FCC 01–93]

Policy and Rules Concerning the International Interexchange Marketplace and 2000 Biennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document forbears from the requirement that U.S. non-dominant interexchange carriers file tariffs for most international services pursuant to the requirements of the Communications Act. The Commission initiated this proceeding to determine whether to extend the complete detariffing regime that it adopted for domestic, interexchange services to the international services of non-dominant commercial mobile radio services and interexchange carriers, including U.S. carriers classified as dominant due to foreign affiliations. The Commission believes that the rules and policies contained in the Order will foster competition in the U.S. international services market and benefit U.S. consumers.

DATES: Effective April 27, 2001. Public and agency comments on the request for emergency approval of the information

collection requirements are due April 11, 2001. Public and agency comments on the request for regular approval of the information collection requirements are due May 29, 2001.

ADDRESSES: All comments regarding the requests for approval of the information collection, both regular and emergency, should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov*; phone 202–418–0214. In addition, comments on the emergency request for approval of the information collections should be submitted to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Kathryn O'Brien, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1460.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 01–93, adopted on March 16, 2001, and released on March 20, 2001. The full text of this document is available for inspection and copying during normal business hours in the Office of Media Relations, Reference Operations Division (Room CY–A257), of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. The document is also available for download over the Internet at http://www.fcc.gov/Bureaus/International/Orders/2001/. The complete text of this document also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Summary of Report and Order

1. In 1996, the Commission adopted policies and rules regarding the detariffing of domestic interexchange services (Domestic Detariffing Order) (61 FR 59340, November 22, 1996). In the Domestic Detariffing Order, the Commission concluded that complete detariffing with limited exceptions for permissive detariffing, satisfies the criteria set forth in section 10(a) of the Communications Act. The Commission made no determination as to whether detariffing international, interexchange services satisfied the requirements of section 10, as competitive conditions in the international marketplace may vary from those in the domestic interexchange marketplace.

2. On October 12, 2000, the Commission adopted a Notice of Proposed Rulemaking (NPRM) (65 FR 66215, November 3, 2000) to determine whether competitive conditions in the international interexchange marketplace support detariffing non-dominant carriers' provision of international services in accordance with the criteria in section 10 of the Communications Act of 1996. Since adopting the Domestic Detariffing Order, there have been dramatic changes in the market for international interexchange services resulting in increased competition. Thus, the Commission commenced this proceeding to examine whether to continue to require U.S. non-dominant interexchange carriers to file tariffs for international services pursuant to the requirements of section 203 of the Act. In addition, pursuant to the Communications Act of 1996, the Commission is required to review all regulations that apply to operations or activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer necessary in the public interest. In the Order, the Commission adopts a policy of complete detariffing for most of the services of non-dominant interexchange and commercial mobile radio service (CMRS) carriers.

3. In the Order the Commission concluded that the Communications Act requires the FCC to forbear from applying section 213 of the Act, and to adopt a policy of complete detariffing for international interexchange services and CMRS provided by non-dominant carriers, with limited exceptions for permissive detariffing.

4. In the Order, the Commission clarified its use of the term ''interexchange services'' to cover those telecommunications services provided between telephone exchanges, not including exchange access services.

5. The Commission reaffirmed its conclusion that the competitive state of the international interexchange marketplace no longer requires non-dominant carriers to file tariffs to ensure that charges, practices, classification or regulations are just and reasonable. In the Order, the Commission describes its efforts that have led to the competition in the marketplace for international interexchange services, which have resulted in significant benefits to consumers. The Commission concluded that pursuant to section 11 of the Act, the requirement that non-dominant carriers file tariffs pursuant to section 203 of the Act is unnecessary because of meaningful economic competition in the international interexchange marketplace. The Order concluded that the Commission's international rules, policies, and enforcement authority, in conjunction with market forces and a more educated consumer, will generally ensure that the rates, practices, and classifications of non-dominant interexchange carriers for international interexchange services will be just and reasonable and not unjustly or unreasonably discriminatory. Thus, tariffs for international interexchange services provided by non-dominant carriers are no longer necessary to ensure that charges, practices, classifications or regulations are just and reasonable and are not unjustly or unreasonably discriminatory as required by section 10(a). In addition, pursuant to section 11, the Commission concluded that the requirement for non-dominant carriers to file tariffs pursuant to section 203 of the Act is unnecessary because of meaningful economic competition in the interexchange marketplace. The Commission believes that its policy of complete detariffing for non-dominant interexchange carriers will improve market efficiency by permitting carriers to respond to the dynamics of the marketplace and will further the goals of sections 201 and 202 of the Act.

6. The Order concluded that complete detariffing will enhance competition and protect consumers against rates, terms and conditions that violate the Communications Act because complete detariffing will permit carriers to have the flexibility necessary to respond to dynamic price and service changes in the marketplace and will best protect consumers from the rates, terms and conditions that violate sections 201 and 202 of the Act.

7. The Order also concluded that tariffing requirements not only impair market efficiency but also permit carriers to harm consumers through the application of the ''filed-rate'' doctrine. In this proceeding, the Commission has sought to prevent, through the use of its forbearance authority granted in section 10, the invocation of the ''filed-rate'' doctrine and its subsequent potential harm to consumers.

8. The Order concluded that a policy of complete detariffing will produce pro-consumer benefits by forcing carriers to be more responsive to customer demands and to offer a greater variety of innovative price and service packages. The Commission acknowledged that permissive or voluntary detariffing would impede vigorous competition in the market for interexchange services by removing the incentives for competitive price discounting, reducing or eliminating carriers' ability to make rapid, efficient responses to changes in demand and

cost, imposing costs on carriers that attempt to make new offerings, and preventing or discouraging consumers from seeking or obtaining service arrangements specifically tailored to their needs.

9. The Commission concluded that complete detariffing will enhance competition and will be in the public interest. However, the Commission did find that there were limited exceptions for permissive detariffing that would be in the public interest. The Order will allow, on a permissive basis, non-dominant interexchange carriers to file tariffs for dial-around 1+ services and local exchange carrier (LEC) implemented new customer services for a period of forty-five days or until there is a written contract between the carrier and customer, whichever is earlier, is in the public interest. The Commission found that permissive detariffing is appropriate for the provision of international inbound collect calls at this time. The Commission adopted a policy of permissive detariffing for the non-dominant provision of ''on-demand'' Mobile Satellite Services where a customer has not entered into a pre-existing ISP service contract for a particular provider. The Order amended § 63.11 of the Commission's rules to reflect the provisions for permissive detariffing.

10. The Order required the public disclosure and maintenance of information about international interexchange services. This information will promote carrier compliance with the requirements of the Act and permit consumers to have the information necessary to make efficient choices regarding their service plans. Carriers must ensure that information is available to the public in at least one location during the regular business hours, and those carriers that have Internet websites must post this information on-line in a timely an easily accessible manner with regular updates. The Order adopts the requirement that carriers update their internet websites within twenty-four hours and update public information sites within five days of the effective date of a change in the rates, terms, or conditions of a detariffed service. Carriers must inform the public that this information is available when responding to consumer inquiries or complaints and specify the manner in which consumers may obtain the information. Carriers must indicate on the title or first page of their cancelled tariffs, the address of their website and of the pubic information site. Proprietary information that a carrier would not disclose in a public tariff need not be disclosed on-line or elsewhere.

11. The Order required non-dominant carriers to maintain price and service information regarding all of their international interexchange offers and be able to submit this information within ten business days to the Commission upon request. Such price and service information will include the information disclosed to the public, in addition to supporting information regarding the rates, terms, and conditions of the carriers' international interexchange offerings. Carriers should continue to keep the supporting information regarding services that is currently required under part 61 of the Commission's rules for carriers submitting tariffs. Non-dominant interexchange carriers are required to retain the information for a period of at least two years and six months following the data that a carrier ceases to provide services on such rates, terms and conditions. This requirement will assist the Commission in monitoring compliance with the Communications Act and the Commission's rules and will help address potential violations that may require enforcement action.

12. The Commission concluded that it is in the public interest to extend the policy of complete detariffing to all U.S. non-dominant carriers, including those regulated as dominant under § 63.10 of the Commission's rules for a specific route because of an affiliation with a foreign carrier possessing market power.

13. The Commission also concluded that it is in the public interest to adopt a policy of complete detariffing for international interexchange services provided by CMRS providers for affiliate and unaffiliated routes. The Commission limited the application of the maintenance of information requirement to services provided by a CMRS carrier on those affiliated routes where the affiliated foreign carrier has market power and collects settlement payments from U.S. carriers. In addition, it is unnecessary to extend to CMRS providers the public disclosure requirements because such requirements are currently not applicable to the provision of domestic cervices by CMRS providers.

14. The Order amended § 43.51 of the Commission's rules to clarify that the rule applies solely to U.S. carrier contracts for international common carrier service involving: (1) A foreign carrier that has market power in its foreign market, or (2) a U.S. carrier that has been classified as dominant on any route for any service included in the contract except for U.S. carriers classified as dominant due only to a foreign carrier affiliation. The Commission maintained its authority under section 211 to require the filing of copies of contracts when it is necessary for implementation and review of compliance with our rules and policies.

15. Finally, the Order adopted a transition period of nine-months from the effective date of this order to allow non-dominant carriers to cancel their tariffs for international interexchange services and become compliant with the rules contained herein. The Commission will not allow the filing of new or revised contract tariffs or other long-term arrangements for international interexchange services during the transition period. The Commission delegated to the International Bureau the authority to address the other transition issues related to international detariffing that may arise when the rules become effective.

Procedural Matters

16. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.'' A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). An Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. The Final Regulatory Flexibility Certification is attached as Attachment A.

17. *Paperwork Reduction Act.* The Commission, as part of its continuing effort to reduce paperwork burden, invites the general pubic and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be submit to

any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. This document contains new or modified information collections subject to the PRA. It will be submitted to the Office of Management and Budget (OMB) for review under the emergency processing provisions of the PRA. The Commission as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s) contained in this Order as required by the PRA. Comments on emergency request for approval of information collections are due on or before April 11, 2001. Public and agency comments on the regular request for approval of the information collections are due on or before May 29, 2001. Comments should address the following: (a) Whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–NEW.

Title: Policy and Rules Concerning the International Interexchange Marketplace.

Form Number: N/A.

Type of Review: New Collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 1,006.

Number of Responses: 202.

Estimated Time Per Response: For part 61 filings, we estimate 10.5 hours per response. For § 43.10–11, we estimate 3 hours. For § 43.51 filings, we estimate 5 hours per response.

Frequency of Response: On Occasion.

Total Annual Burden: 10,500 hours.

Total Annual Costs: $84,000.

Needs and Uses: The information will be used by the public and the Commission to determine whether the rates, terms and conditions of service offered are just and reasonable as the Act requires. The information will be used by the Commission to assist the Commission in addressing potential violations of the Communications Act and the Commission's rules, which may require enforcement action. Also, the information will be used by other carriers and the Commission to guard against anticompetitive activities by U.S. and foreign carriers.

Ordering Clauses

18. Accordingly, *It is Ordered*, that, pursuant to sections 1–4, 10, 11, 201–205, 211, 218, 220, 226, 303(g), 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 161, 201–205, 211, 218, 220, 226, 303(g), 303(r) and 332 the *Report and Order* is *Adopted.*

19. *It is Ordered* that, the Commission's Consumer Information Bureau, Reference Information Center shall send a copy of this *Report and Order*, including the final regulatory flexibility analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

20. *It is Further Ordered* that, the policies, rules and requirements established in this decision shall take effect thirty days after publication in the **Federal Register** or in accordance with the requirements of 5 U.S.C. 801 (a)(3) and 44 U.S.C. 3507.

List of Subjects

47 CFR Part 0

Reporting and Recordkeeping requirements.

47 CFR Part 20

Communications common carriers.

47 CFR Parts 42, 43, 61, 63, and 64

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

LaVera F. Marshall,

Chief, Agenda Group.

Attachment A

1. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). An Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. The one comment received on the IRFA is discussed below.

2. There have been dramatic changes in the market for international interexchange services due to the increase in privatization and liberalization of foreign markets, the execution of the WTO Basic Telecom Agreement, the decrease in settlement rates, and the increase in competition in the U.S. international services market. These changes have resulted in a substantial increase in the level of competition in the international interexchange services marketplace. Therefore, we believe it is no longer necessary to require tariffs for international interexchange services under section 203 of the Act, except for carriers classified as dominant for particular services on particular routes for reasons other than a foreign carrier affiliation under § 63.10 of the rules. The Commission concludes that detariffing international interexchange services will serve to promote further the pro-competitive goals of the 1996 Telecommunications Act and foster increased competition. The Order requires complete or mandatory detariffing, with limited exceptions, for the international interexchange services provided by non-dominant carriers. The rules and policies contained in the Order apply to all carriers providing international common carrier service pursuant to section 214 of the Act

3. We believe that this Order will reduce carriers' filing costs. Although eliminating the filing of tariffs with the Commission, the Order does require that non-dominant interexchange carriers make information available to the public concerning current rates, terms, and conditions for all international interexchange services, in at least one location during regular business hours. Carriers that have Internet websites also must post this information on-line. The Order also requires that non-dominant international carriers, with the exception of most commercial mobile service providers, maintain price and service information regarding all of their international service offerings. This price and service information should include the information covered by the public disclosure requirement as well as supporting documents for the rates, terms and conditions of the offerings. The Order does not standardize the maintenance of information and public disclosure requirements so that carriers may maintain and disclose their rate information in a manner that is consistent with those business practices. These public disclosure and maintenance requirements are nominal because the information is currently

maintained by all carriers, including small entities, in the normal course of business; and therefore, do not impose a significant economic impact on these small entities.

4. In addition, the Order reduces the filing of carrier-to-carrier contracts contained in § 43.51. The Order clarifies that § 43.51 applies solely to U.S. carrier contracts for international common carrier service involving: (1) A foreign carrier that has market power in its foreign market, or (2) a U.S. carrier that has been classified as dominant, for any service, on any route included in the contract, except for U.S. carriers classified as dominant due only to a foreign carrier affiliation. The Order eliminates the current requirement in § 43.51(a)(3) that carriers file contracts related to rights granted by foreign governments, and stipulates that the Commission may obtain contracts and seek remedies against improper activity through the section 208 complaint process initiated by either a competitor or the Commission. These modifications to the rules eliminate filing requirements on small entities and therefore, do not pose a significant economic impact on such entities.

5. The Commission has identified instances when tariffs will be permitted. The Commission's rules will permit carriers, including small entities, to file tariffs for their services with respect to international interexchange direct-dial services initiated by dialing a carrier's access code; and international interexchange services provided during the initial forty-five days of service or until there is a written contract between the carrier and the customer, but in no event shall the carrier provide service to its customer pursuant to tariff for more than forty-five days. The Order also adopts permissive detariffing for those ''on-demand'' mobile satellite services (MSS) services for which customers have not entered into pre-existing service contracts designating a particular provider. Finally, the Order also adopts permissive detariffing for international inbound collect calls. Carriers that permissively file tariffs under the Commission's rules will not be required to file information in addition to what is currently required. Therefore, these rules do not increase burdens on small entities, nor do they create a significant economic impact.

6. Therefore, we certify that none of the requirements of the Order will have a significant economic impact on a substantial number of small entities.

7. Only one commenter, Global Telecompetition Consultants, Inc. (GTC), addresses the issue of the RFA. GTC argues that the Commission did not perform the proper analysis in the RFA contained in the prior domestic detariffing proceeding. GTC raises this issue in this international detariffing proceeding because the international detariffing NPRM relies on the principles adopted in the domestic detariffing proceeding.

8. GTC's arguments focus on the ''filed-rate'' doctrine. GTC construes the Commission's statements, both in the domestic proceeding and in the international detariffing NPRM, that complete detariffing will eliminate the possible invocation of the ''filed-rate'' doctrine, as ''doing away with'' the filed rate doctrine. GTC argues that detariffing, whether domestic or international, is not equivalent to the abolition of the ''filed-rate'' doctrine, which is a judicially-created doctrine that the Commission cannot overturn. Thus, GTC claims that the Commission exceeded its jurisdiction and acted arbitrarily and capriciously in its analysis of how complete detariffing would eliminate the ''filed-rate'' doctrine. Further, GTC claims that the Commission violated the RFA by engaging in a perfunctionary analysis of complete detariffing's effect on the ''filed-rate'' doctrine and how its elimination of the doctrine would affect small carriers. GTC does not, however, cite to any specific harms caused small carriers from either domestic or international detariffing.

9. We disagree with GTC's argument that, by ordering complete detariffing, the Commission has purported to ''overturn'' a judicial doctrine. Rather than ''doing away with'' the filed-rate doctrine, the Commission in the domestic and international proceedings has simply exercised its forbearance authority granted in section 10 of the Act. Congress expressly empowered the Commission to forbear in certain circumstances from the statutory provisions of the Act. The Commission's statutory authority in section 10 to forbear from applying section 203 of the Act and to prohibit the filing of tariffs has been upheld by the U.S. Court of Appeals for the D.C. Circuit. Moreover, commenters concur that, in light of the D.C. Circuit's ruling, the Commission has the authority to require international carriers to cancel their tariffs. As the Commission explained in the domestic proceeding, the ''filed-rate'' doctrine has been applied to the rates, terms, and conditions of services specified in tariffs that are ''duly filed'' with the Commission in accordance with section 203 of the Act. Therefore, in the context of complete detariffing, if the Commission prohibits the filing of tariffs under section 10, there are no tariffs ''duly filed'' with the Commission and carriers have no opportunity to invoke the ''filed-rate'' doctrine. Because we reject GTC's interpretation of the Commission's action, we also dismiss GTC's argument that we have engaged in arbitrary and capricious decisionmaking in proposing to detariff international services.

10. We further note that, although there are similar policy rationales for detariffing domestic and international interexchange services, the Commission developed an independent record for detariffing international interexchange services in this proceeding. Thus, the Commission does not rely on the analysis contained in the domestic detariffing proceeding, but rather analyzes the full impact of the policies contained in this Order on all parties including small businesses. As noted above, the Commission incorporated an IRFA in the NPRM in this proceeding. The Commission tentatively concluded in the IRFA that its detariffing proposals were the least burdensome alternatives on small entities and that eliminating the tariff requirement would reduce administrative costs to all entities, including small entities. The Commission sought comment on those tentative conclusions. In this Order, we affirm the tentative conclusions in the NPRM and determine that complete detariffing will permit all carriers, including small carriers, to have the flexibility necessary to respond to dynamic price and service changes in the marketplace and will best protect consumers from the rates, terms and conditions that violate the Communications Act.

11. Report to Congress: The Commission will send a copy of the Order, including a copy of the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the Order, including a copy of the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and Final Regulatory Flexibility Certification will also be published in the **Federal Register**.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 20, 42, 43, 61, 63 and 64 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.457 is amended by revising paragraph (d)(1)(vi) to read as follows:

§ 0. 457 Records not routinely available for public inspection.

* * * * *

(d) * * *

(1) * * *

(vi) The rates, terms and conditions in any agreement between a U.S. carrier and a foreign carrier that govern the settlement of U.S. international traffic, including the method for allocating return traffic, if the U.S. international route is exempt from the international settlements policy under § 43.51(e)(3) of this Chapter.

* * * * *

PART 20—COMMERCIAL MOBILE RADIO SERVICES

3. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 251–254, 303, and 332 unless otherwise noted.

4. Section 20.15 is amended by revising paragraphs (c) and (d) to read as follows:

§ 20.15 Requirements under Title II of the Communications Act.

* * * * *

(c) Commercial mobile radio service providers shall not file tariffs for international and interstate service to their customers, interstate access service, or international and interstate operator service. Sections 1.771 through 1.773 and part 61 of this chapter are not applicable to international and interstate services provided by commercial mobile radio service providers. Commercial mobile radio service providers shall cancel tariffs for international and interstate service to their customers, interstate access service, and international and interstate operator service.

(d) Except as specified as in paragraphs (d)(1) and (2), nothing in this section shall be construed to modify the Commission's rules and policies on the provision of international service under part 63 of this chapter.

(1) Notwithstanding the provisions of § 63.21(c) of this chapter, a commercial mobile radio service provider is not required to comply with § 42.10 of this chapter.

(2) A commercial mobile radio service (CMRS) provider that is classified as dominant under § 63.10 of this chapter due to an affiliation with a foreign carrier is required to comply with § 42.11 of this chapter if the affiliated foreign carrier collects settlement payments from U.S. carriers for terminating U.S. international switched traffic at the foreign end of the route. Such a CMRS provider is not required to comply with § 42.11, however, if it provides service on the affiliated route solely through the resale of an unaffiliated facilities-based provider's international switched services.

(3) For purposes of paragraphs (d)(1) and (2) of this section, *affiliated* and *foreign carrier* are defined in § 63.09 of this Chapter.

* * * * *

PART 42—PRESERVATION OF RECORDS OF COMMUNICATIONS COMMON CARRIERS

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

Authority: Sec. 4(i), 48 Stat. 1066, as amended, 47 U.S.C. 154(i). Interprets or applies secs. 219 and 220, 48 Stat. 1077–78, 47 U.S.C. 219, 220.

6. Section 42.10 is amended by revising paragraph (a) to read as follows:

§ 42.10 Public availability of information concerning interexchange services.

(a) A nondominant interexchange carrier (IXC) shall make available to any member of the public, in at least one location, during regular business hours, information concerning its current rates, terms and conditions for all of its international and interstate, domestic, interexchange services. Such information shall be made available in an easy to understand format and in a timely manner. Following an inquiry or complaint from the public concerning rates, terms and conditions for such services, a carrier shall specify that such information is available and the manner in which the public may obtain the information.

* * * * *

7. Section 42.11 is amended by revising paragraph (a) to read as follows:

§ 42.11 Retention of information concerning detariffed interexchange services.

(a) A nondominant IXC shall maintain, for submission to the Commission and to state regulatory commissions upon request, price and service information regarding all of the carrier's international and interstate, domestic, interexchange service offerings. A commercial mobile radio service (CMRS) provider shall maintain such price and service information only about its international common carrier service offerings and only for those routes on which the CMRS provider is classified as dominant under § 63.10 of this Chapter due to an affiliation with a foreign carrier that collects settlement payments from U.S. carriers for terminating U.S. international switched traffic at the foreign end of the route. Such a CMRS provider is not required to maintain its price and service information, however, on any such affiliated route if it provides service on that route solely through the resale of an unaffiliated facilities-based provider's international switched services. The price and service information maintained for purposes of this paragraph shall include documents supporting the rates, terms, and conditions of the carrier's international and interstate, domestic, interexchange offerings. The information maintained pursuant to this section shall be maintained in a manner that allows the carrier to produce such records within ten business days. For purposes of this paragraph, *affiliated* and *foreign carrier* are defined in § 63.09 of this Chapter.

* * * * *

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

8. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

9. Section 43.51 is revised to read as follows:

§ 43.51 Contracts and concessions.

(a) (1) Any communication common carrier described in paragraph (b) of this section must file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and amendments thereto with respect to the following:

(i) The exchange of services; and,

(ii) The interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances, except as provided in paragraph (c) of this section.

(2) If the contract, agreement, concession, license, authorization, operating agreement or other arrangement and amendments thereto is

made other than in writing, a certified statement covering all details thereof must be filed by at least one of the parties to the agreement. Each other party to the agreement which is also subject to these provisions may, in lieu of also filing a copy of the agreement, file a certified statement referencing the filed document. The Commission may, at any time and upon reasonable request, require any communication common carrier not subject to the provisions of this section to submit the documents referenced in this section.

(b) The following communication common carriers must comply with the requirements of paragraph (a) of this section:

(1) A carrier that is engaged in domestic communications and has not been classified as non-dominant pursuant to § 61.3 of this Chapter,

(2) A carrier, other than a provider of commercial mobile radio services, that is engaged in foreign communications and enters into a contract, agreement, concession, license, authorization, operating agreement or other arrangement and amendments thereto with a foreign carrier that does not qualify for the presumption, set forth in Note 3 to this section, that it lacks market power on the foreign end of one or more of the international routes included in the contract, or

(3) A carrier that has been classified as dominant for any service on any of the international routes included in the contract, except for a carrier classified as dominant on a particular route due only to a foreign carrier affiliation under § 63.10 of this chapter.

(c) With respect to contracts coming within the scope of paragraph (a)(1)(ii) of this section between subject telephone carriers and connecting carriers, except those contracts related to communications with foreign or overseas points, such documents shall not be filed with the Commission; but each subject telephone carrier shall maintain a copy of such contracts to which it is a party in appropriate files at a central location upon its premises, copies of which shall be readily accessible to Commission staff and members of the public upon reasonable request therefor; and upon request by the Commission, a subject telephone carrier shall promptly forward individual contracts to the Commission.

(d) Any U.S. carrier that interconnects an international private line to the U.S. public switched network, at its switch, including any switch in which the carrier obtains capacity either through lease or otherwise, shall file annually with the Chief of the International Bureau a certified statement containing the number and type (e.g., a 64-kbps circuit) of private lines interconnected in such a manner. The certified statement shall specify the number and type of interconnected private lines on a country specific basis. The identity of the customer need not be reported, and the Commission will treat the country of origin information as confidential. Carriers need not file their contracts for such interconnections, unless they are specifically requested to do so. These reports shall be filed on a consolidated basis on February 1 (covering international private lines interconnected during the preceding January 1 to December 31 period) of each year. International private lines to countries for which the Commission has authorized the provision of switched basic services over private lines at any time during a particular reporting period are exempt from this requirement.

(e) International settlements policy. (1) Except as provided in paragraph (e)(3) of this section, if a carrier files an operating or other agreement with a foreign carrier pursuant to paragraph (a) of this section to begin providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point and the terms and conditions of such agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, are not identical to the equivalent terms and conditions in the operating agreement of another carrier providing the same or similar service between the United States and the same foreign point, the carrier must also file with the International Bureau a modification request under § 64.1001 of this chapter. Unless a carrier is providing switched voice, telex, telegraph, or packet-switched service on a route that is exempt from the international settlements policy, the carrier shall not bargain for or agree to accept more than its proportionate share of return traffic.

(2) Except as provided in paragraph (e)(3) of this section, if a carrier files an amendment, pursuant to paragraph (a) of this section, to an existing operating or other agreement with a foreign carrier to provide switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, and other carriers provide the same or similar service to the same foreign point, and the amendment relates to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, the carrier must also file with the International Bureau a modification request under § 64.1001 of this Chapter.

(3) A carrier that enters into an operating or other agreement with a foreign carrier for the provision of a common carrier service on an international route is not subject to the requirements of paragraphs (e)(1) and (2) of this section if the route appears on the Commission's list of international routes that the Commission has exempted from the international settlements policy.

Note to § 43.51(e)(3): The Commission's list of international routes exempted from the international settlements policy is available from the International Bureau's World Wide Web site at *http://www.fcc.gov/ib.* A party that seeks to add a foreign market to the list of markets that are exempt from the international settlements policy must show that U.S. carriers are able to terminate at least 50 percent of U.S.-billed traffic in the foreign market at rates that are at least 25 percent below the benchmark settlement rate adopted for that country in IB Docket No. 96–261, Report and Order, 12 FCC Rcd 19,806, 62 FR 45758, Aug. 29, 1997. A party that seeks to remove a foreign market from the list of markets that are exempt from the international settlements policy must show that U.S. carriers are unable to terminate at least 50 percent of U.S.-billed traffic in the foreign market at rates that are at least 25 percent below the benchmark settlement rate adopted for that country in IB Docket No. 96–261.

(f) Confidential treatment. (1) A carrier providing service on an international route that is exempt from the international settlements policy under paragraph (e)(3) of this section, but that is otherwise required by paragraphs (a) and (b) of this section to file a contract covering service on that route with the Commission, may request confidential treatment under § 0.457 of this Chapter for the rates, terms and conditions that govern the settlement of U.S. international traffic.

(2) Carriers requesting confidential treatment under this paragraph must include the information specified in § 64.1001(c) of this Chapter. Such filings shall be made with the Commission, with a copy to the Chief, International Bureau. The transmittal letter accompanying the confidential filing shall clearly identify the filing as responsive to § 43.51(f).

Note 1 to § 43.51: For purposes of this section, *affiliated* and *foreign carrier* are defined in § 63.09 of this chapter.

Note 2 to § 43.51: To the extent that a foreign government provides telecommunications services directly through

a governmental organization, body or agency, it shall be treated as a foreign carrier for the purposes of this section.

Note 3 to § 43.51: Carriers shall rely on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points for purposes of determining which of their foreign carrier contracts are subject to the contract filing requirements set forth in this section. The Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib. The Commission will include on the list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points any foreign carrier that has 50 percent or more market share in the international transport or local access markets of a foreign point. A party that seeks to remove such a carrier from the Commission's list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier lacks 50 percent market share in the international transport and local access markets on the foreign end of the route or that it nevertheless lacks sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market. A party that seeks to add a carrier to the Commission's list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier has 50 percent or more market share in the international transport or local access markets on the foreign end of the route or that it nevertheless has sufficient market power to affect competition adversely in the U.S. market.

PART 61—TARIFFS

10. The authority citation for part 61 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, and 403 unless otherwise noted.

11. Section 61.3 is amended by revising paragraph (y) to read as follows:

§ 61.3 Definitions.

* * * * *

(y) *Non-dominant carrier.* A carrier not found to be dominant. The nondominant status of providers of international interexchange services for purposes of this subpart is not affected by a carrier's classification as dominant under § 63.10 of this chapter.

* * * * *

12. Section 61.19 is revised to read as follows:

§ 61.19 Detariffing of international and interstate, domestic interexchange services.

(a) Except as otherwise provided in paragraphs (b) through (e) of this section, or by Commission order, carriers that are nondominant in the provision of international and interstate, domestic interexchange services shall not file tariffs for such services.

(b) Carriers that are nondominant in the provision of international and domestic, interstate, interexchange services are permitted to file tariffs for dial-around 1+ services. For the purposes of this paragraph, dial-around 1+ calls are those calls made by accessing the interexchange carrier through the use of that carrier's carrier access code.

(c) Carriers that are nondominant in the provision of international and domestic, interstate, interexchange services are permitted to file a tariff for such services applicable to those customers who contact the local exchange carrier to designate an interexchange carrier or to initiate a change with respect to their primary interexchange carrier. Such tariff will enable the interexchange carrier to provide service to the customer until the interexchange carrier and the customer consummate a written agreement, but in no event shall the interexchange carrier provide service to its customer pursuant to such tariff for more than 45 days.

(d) Carriers that are nondominant in the provision of international inbound collect calls to the United States are permitted to file a tariff for such services.

(e) Carriers that are nondominant in the provision of ''on-demand'' Mobile Satellite Services are permitted to file a tariff for such services applicable to those customers that have not entered into pre-existing service contracts designating a specific provider for such services.

13. Section 61.28 is revised to read as follows:

§ 61.28 International dominant carrier tariff filing requirements.

(a) Any carrier classified as dominant for the provision of particular international communications services on a particular route for any reason other than a foreign carrier affiliation under § 63.10 of this chapter shall file tariffs for those services pursuant to the notice and cost support requirements for tariff filings of dominant domestic carriers, as set forth in subpart E of this part.

(b) Other than the notice and cost support requirements set forth in paragraph (a) of this section, all tariff filing requirements applicable to all carriers classified as dominant for the provision of particular international communications services on a particular route for any reason other than a foreign carrier affiliation pursuant to § 63.10 of this chapter are set forth in subpart C of this part.

§ 61.74 [Amended]

14. Section 61.74 is amended by removing paragraph (d) and redesignating paragraphs (e) and (f) as paragraphs (d) and (e).

PART 63—EXTENSION OF LINES, NEW LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

15. The authority citation for part 63 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

16. Section 63.10 is amended by removing paragraph (c)(1) and redesignating paragraphs (c)(2) through (6) as paragraphs (c)(1) through (5).

17. Section 63.14 is amended by revising paragraph (c) to read as follows:

§ 63.14 Prohibition on agreeing to accept special concessions.

* * * * *

(c) This section shall not apply to the rates, terms and conditions in an agreement between a U.S. carrier and a foreign carrier that govern the settlement of international traffic, including the method for allocating return traffic, if the international route is exempt from the international settlements policy under § 43.51(e)(3) of this chapter.

18. Section 63.17 is amended by revising paragraph (b)(3) to read as follows:

§ 63.17 Special provisions for U.S. international common carriers.

* * * * *

(b) * * *

(3) Authorized carriers filing tariffs pursuant to §§ 61.19 or 61.28 of this chapter that route U.S.-billed traffic via switched hubbing shall tariff their service on a ''through'' basis between the United States and the ultimate point of origination or termination;

* * * * *

19. Section 63.21 is amended by revising paragraphs (b) and (c) to read as follows:

§ 63.21 Conditions applicable to all international Section 214 authorizations.

* * * * *

(b) Carriers must file copies of operating agreements entered into with their foreign correspondents as specified in § 43.51 of this chapter and shall otherwise comply with the filing requirements contained in that section.

(c) Carriers regulated as dominant for the provision of a particular international communications service on a particular route for any reason other than a foreign carrier affiliation under § 63.10 shall file tariffs pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, and part 61 of this chapter. Except as specified in § 20.15(d) of this chapter with respect to commercial mobile radio service providers, carriers regulated as non-dominant, as defined in § 61.3 of this chapter, and providing detariffed international services pursuant to § 61.19 of this chapter must comply with all applicable public disclosure and maintenance of information requirements in §§ 42.10 and 42.11 of this chapter.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

20. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 47 U.S.C. 225, 47 U.S.C. 251(e)(1), 151, 154, 201, 202, 205, 218–220, 254, 302, 303, and 337 unless otherwise noted.

21. Section 64.1001 is amended by revising paragraph (b) to read as follows:

§ 64.1001 International settlements policy and modification requests.

* * * * *

(b) If the international settlement arrangement in the operating agreement or amendment referred to in § 43.51(e)(1) or (e)(2) of this chapter differs from the arrangement in effect in the operating agreement of another carrier providing service to or from the same foreign point, the carrier must file a modification request under this section unless the international route is exempt from the international settlements policy under § 43.51(e)(3) of this chapter.

* * * * *

[FR Doc. 01–7708 Filed 3–27–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–631, MM Docket No. 99–329, RM–9701]

Radio Broadcasting Services; Avalon, Fountain Valley, Adelanto, Ridgecrest and Riverside, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants, at the request of Amaturo Group of L.A., Ltd., licensee of Stations KLIT(FM), Avalon, California, KELT(FM), Riverside, California and KMLT, Thousand Oaks, California, the reallotment of Channel 224A from Avalon to Fountain Valley, as that community's first local aural transmission service, and modification of the station's authorization accordingly, the reallotment of Channel 224A from Riverside to Adelanto, California, as that community's first local aural transmission service, and modification of that station's authorization accordingly, the substitution of Channel 224A for Channel 224B1 at Ridgecrest at a newly specified transmitter site, and modification of the authorization of Station KZIQ–FM, and a change in the reference coordinates of Station KMLT, Thousand Oaks, to avoid a short spacing to the proposed reallotment of Channel 224A to Fountain Valley, California. See 64 FR 68665 (December 8, 1999). Consistent with the minimum distance separation requirements of Section 73.207(b) and the principal community coverage requirements of Section 73.315(a) of the Commission's Rules, Channel 224A can be allotted to Fountain Valley, at petitioner's requested site 9.9 kilometers (6.1 miles) south of the community at coordinates 33–36–56 NL and 117–55–33 WL. Channel 224A can be allotted to Adelanto at petitioner's requested site 8.9 kilometers (5.5 miles) west of the community at coordinates 34–36–11 NL and 117–28–01 WL. The reference coordinates of Channel 224A, Thousand Oaks can be revised to 34–13–05 NL and 118–56–42 WL. The downgrade to Channel 224A at Ridgecrest can be accomplished at petitioner's requested site 1.5 kilometers west of the community at coordinates 35–37–27 NL and 117–41–10 WL. Additionally, concurrence of the Mexican government has been obtained for the allotments at Fountain Valley and Adelanto.

DATES: Effective April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–329, adopted February 28, 2001, and released March 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—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 FM Table of Allotments under California is amended by removing Avalon, Channel 224A and adding Fountain Valley, Channel 224A, by removing Channel 224A at Riverside and adding Adelanto, Channel 224A, and by removing Channel 224B1 at Ridgecrest and adding Channel 224A at Ridgecrest.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–7612 Filed 3–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–690; MM Docket No. 00–208, RM–9977; MM Docket No. 00–209, RM–9978; MM Docket No. 00–211, RM–9993]

Radio Broadcasting Services; Huachuca City, AZ; Rio Rico, AZ; Pine Level, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants three proposals that allot new channels to Huachuca City, Arizona; Rio Rico, Arizona; and Pine Level, Alabama, as described in the Supplementary Information, below. Filing windows for Channel 232A at Huachuca City, Arizona; Channel 300A at Rio Rico, Arizona; and Channel 248A at Pine Level, Alabama, will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent order. With this action, these docketed proceeding are terminated.

DATES: Effective April 30, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's consolidated Report and Order, MM Docket No. 00–208; MM Docket No. 00–209; MM Docket No. 00–211, adopted March 7, 2001, and released March 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257) 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

The Commission, at the request of Santa Cruz Broadcasting, allots Channel 232A to Huachuca City, Arizona, as the community's first local aural transmission service. See 65 FR 67689, November 13, 2000. Channel 232A is allotted to Huachucha City with a site restriction 10.9 kilometers (6.8 miles) southwest at coordinates 31–32–30 NL and 110–23–20 WL. Additionally, as Huachuca City is located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence to the allotment of Channel 232A to that community by the Mexican government has been requested, as a specially negotiated, restricted allotment, but has not been received. Therefore, if a construction permit is granted prior to receipt of formal concurrence in the allotment by the Mexican government, the authorization will include the following condition: ''Operation with the facilities specified herein is subject to modification, suspension or termination without right to a hearing, if found by the Commission to be necessary in order to conform to the USA-Mexico FM Broadcast Agreement.''

The Commission, at the request of Santa Cruz Broadcasting, allots Channel 300A to Rio Rico, Arizona, as the community's first local aural transmission service. See 65 FR 67689, November 13, 2000. Channel 300A is allotted to Rio Rico without a site restriction at coordinates 31–24–00 NL and 110–57–30 WL. Additionally, as Rio Rico is located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence to the allotment of Channel 300A to that community by the Mexican government has been requested, as a specially negotiated, restricted allotment, but has not been received. Therefore, if a construction permit is granted prior to receipt of formal concurrence in the allotment by the Mexican government, the authorization will include the following condition: ''Operation with the facilities specified herein is subject to modification, suspension or termination without right to a hearing, if found by the Commission to be necessary in order to conform to the USA-Mexico FM Broadcast Agreement.''

The Commission, at the request of Susannah Lane Hodges, allots Channel 248A to Pine Level, Alabama, as the community's first local aural transmission service. See 65 FR 67690, November 13, 2000. Channel 248A is allotted to Pine Level without a site restriction at coordinates 32–04–04 NL and 86–03–35 WL.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Huachuca City, Channel 232A and Rio Rico, Channel 300A.

3. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Pine Level, Channel 248A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–7610 Filed 3–27–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 66, No. 60
Wednesday, March 28, 2001

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 129 and 165

[Docket No. OIN–0126]

Beverages: Bottled Water; Companion Document to Direct Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its bottled water quality standard by establishing allowable levels in its regulations for three residual disinfectants (chloramine, chlorine, and chlorine dioxide) and three types of disinfection byproducts (DBP's) (bromate, chlorite, and haloacetic acids (HAA5)). FDA also is proposing to revise the existing allowable level for the DBP total trihalomethanes (TTHM). Finally, FDA is also proposing to revise, for the three residual disinfectants and four types of DBP's only, the monitoring requirement for source water found in the current good manufacturing practice (CGMP) regulations for bottled water. As a consequence of FDA's amending the quality standard for these residual disinfectants and DBP's, bottled water manufacturers would be required to monitor their finished bottled water products for these disinfectants and DBP's at least once each year under the CGMP regulations for bottled water. Bottled water manufacturers also would be required to monitor for these contaminants at least once each year in their source water, unless the bottlers meet the criteria for the source water monitoring exemption under the proposed amendment to the CGMP regulations. This proposed rule will ensure that the minimum quality of bottled water, as affected by the above disinfectants and DBP's, remains comparable with the quality of public drinking water that meets the Environmental Protection Agency's (EPA's) standards. This proposed rule is a companion to the direct final rule published elsewhere in this issue of the **Federal Register**.

DATES: Submit written comments by June 11, 2001.

ADDRESSES: Submit written comments on the companion proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lauren Posnick, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–358–3568.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule is a companion to the direct final rule published in the final rules section of this issue of the **Federal Register**. The companion proposed rule and the direct final rule are substantively identical. This companion proposed rule will provide the procedural framework to finalize the rule in the event the direct final rule receives significant adverse comment and is withdrawn. The comment period for the companion proposed rule runs concurrently with the comment period of the direct final rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule. FDA is publishing the direct final rule because the rule contains noncontroversial changes, and the agency anticipates that it will receive no significant adverse comment. A detailed discussion of this rule is set forth in the preamble of the direct final rule. If no significant adverse comment is received in response to the direct final rule, no further action will be taken related to this proposed rule. Instead, FDA will publish a confirmation notice, after the comment period ends, to confirm the effective date of the direct final rule. The confirmation notice will publish no later than July 5, 2001. FDA intends the direct final rule to become effective January 1, 2002. If FDA receives significant adverse comment, the agency will withdraw the direct final rule. FDA will proceed to respond to all of the comments received regarding the rule, and, if appropriate, the rule will be finalized under this companion proposed rule using notice-and-comment procedures. The comment period for this companion proposed rule runs concurrently with the comment period for the direct final rule. Any comments received under this companion proposed rule will also be considered as comments regarding the direct final rule.

On December 16, 1998 (63 FR 69390), EPA published the Stage 1 Disinfection Byproducts Rule (Stage I DBPR) to address potential public health effects from the presence of disinfectants and DBP's in drinking water. This rulemaking finalized a proposed rule that EPA published in the **Federal Register** on July 29, 1994 (59 FR 38668).

Disinfectants are chemicals, such as chlorine and ozone, that are added to drinking water to control microbial contamination. Both bottlers and public water systems may use disinfectants. Public water systems typically add disinfectants to drinking water at levels sufficient to maintain a disinfectant residual throughout the distribution system (i.e., the system of pipes that takes water from water treatment plants to customers). DBP's are chemicals that result from the unintentional interaction of the disinfectants with inorganic or organic compounds present in the water supply. Examples of DBP's include chloroform (a byproduct of treatment with chlorine) and bromate (a byproduct of ozonation). Both disinfectants and DBP's can have adverse health effects (59 FR 38668 at 38679 through 38710).

National primary drinking water regulations (NPDWR's) are promulgated by EPA to protect the public health from the adverse effects of contaminants in drinking water. NPDWR's specify maximum contaminant levels (MCL's) or treatment techniques for drinking water contaminants. In addition, at the same time that it promulgates NPDWR's, EPA publishes maximum contaminant level goals (MCLG's), which are not regulatory requirements but rather are nonenforceable health goals that are based solely on considerations of protecting the public from adverse health effects of drinking water contamination. In its proposed rule on disinfectants and DBP's (59 FR 38668), EPA also introduced the concept of maximum residual disinfectant levels (MRDL's) and maximum residual disinfectant level goals (MRDLG's). MRDL's and MRDLG's are comparable

to MCL's and MCLG's, in that they set contaminant levels and health goals, respectively. EPA used the terms MRDL and MRDLG for disinfectants, rather than using the terms MCL and MCLG, to reflect the fact that disinfectants have beneficial properties (63 FR 69390 at 69398, December 16, 1998; 59 FR 38668 at 38672, and 38679).

In the Stage I DBPR (63 FR 69390), EPA published NPDWR's consisting of MCL's for the DBP's bromate, chlorite, HAA5, and TTHM. EPA also published MRDL's for the chlorine-based disinfectants chlorine, chloramine, and chlorine dioxide. Finally, EPA published MCLG's and MRDLG's for these contaminants, as well as approved methods of testing for these contaminants.

Under section 410 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 349), not later than 180 days before the effective date of an NPDWR promulgated by EPA for a contaminant under section 1412 of the Safe Drinking Water Act (SDWA) (42 U.S.C. 300g-l)[1], FDA is required to promulgate a standard of quality regulation for that contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems but not in water used for bottled drinking water. The effective date for any such standard of quality regulation is to be the same as the effective date of the NPDWR. In addition, section 410(b)(2) of the act provides that a quality standard regulation issued by FDA shall include monitoring requirements that the agency determines to be appropriate for bottled water. Further, section 410(b)(3) of the act requires a quality standard regulation for a contaminant in bottled water to be no less stringent than EPA's MCL and no less protective of the public health than EPA's treatment technique requirements for the same contaminant.

II. Additional Information

For additional information see the corresponding direct final rule published elsewhere in this issue of the **Federal Register**. All persons who wish to submit comments should review the detailed rationale for these amendments set out in the preamble discussion of the direct final rule.

[1]FDA considers EPA's compliance date for subpart H public water systems (systems using surface water or ground water under the direct influence of surface water) that serve a population of 10,000 or more to be the effective date for purposes of section 410 of the act. The compliance date was set at December 16, 2001, in the Stage I DBPR (63 FR 69390) and updated in a subsequent rule to January 1, 2002 (65 FR 20303, April 14, 2000).

If FDA receives any significant adverse comments regarding this rule, FDA will publish a document withdrawing the direct final rule and will proceed to respond to the comments under this companion proposed rule using usual notice and comment procedures.

A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change. A comment recommending a rule change that is in addition to the rule will not be considered a significant adverse comment, unless the comment states why this rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, FDA may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

III. EPA Standards

The SDWA, as amended in 1996, requires EPA to publish an NPDWR that specifies either an MCL or a treatment technique requirement for contaminants that may ''have an adverse effect on the health of persons,'' are ''known to occur or [have] a substantial likelihood [of occurring] in public water systems with a frequency and at levels of public health concern,'' and for which ''regulation * * * presents a meaningful opportunity for health risk reduction for persons served by public water systems'' (SDWA Section 1412(b)(1)(A)). The SDWA (Section 300g-1(a)(3)) also requires that EPA promulgate MCLG's at the time that it promulgates NPDWR's. MCLG's are nonenforceable health goals that are based solely on considerations of protecting the public from the adverse health effects of contaminants, and not on other considerations, such as potential costs of regulating contaminants and potential technical difficulties of achieving the health goals (59 FR 38668 at 38671). EPA sets MCL's, the enforceable contaminant levels, as close as feasible to the nonenforceable MCLG's.

In its proposed rule on disinfectants and DBP's (59 FR 38668), EPA also introduced the concept of MRDL's and MRDLG's. MRDL's and MRDLG's are comparable to MCL's and MCLG's, in that they set contaminant levels and health goals. EPA used the terms MRDL and MRDLG for disinfectants, rather than using the terms MCL and MCLG, to reflect the fact that disinfectants have beneficial properties and are intentionally added to drinking water to kill disease-causing organisms (63 FR 69390 at 69398; 59 FR 38668 at 38672, and 38679).

In the Stage I DBPR (63 FR 69390 at 69396), EPA established an MCL of 0.060 milligram per liter (mg/L) for the total of the five haloacetic acids that make up HAA5 (i.e., mono-, di-, and trichloroacetic acid, and mono- and dibromoacetic acid). EPA also reduced the existing MCL for TTHM from 0.10 mg/L to 0.080 mg/L (63 FR 69390 at 69396). EPA also established MCL's for two inorganic DBP's: 0.010 mg/L for bromate and 1.0 mg/L for chlorite (63 FR 69390 at 69396). Finally, EPA established MRDL's for three disinfectants: 4.0 mg/L (as Cl_2) for chlorine, 4.0 mg/L (as Cl_2) for chloramine, and 0.8 mg/L (as ClO_2) for chlorine dioxide (63 FR 69390 at 69396).

IV. FDA Standards

A. The Agency's Approach to the Bottled Water Quality Standards Established Under Section 410 of the Act.

Under section 401 of the act (21 U.S.C. 341), the agency may promulgate a regulation establishing a standard of quality for a food under its common or usual name, when in the judgment of the Secretary of Health and Human Services such action will promote honesty and fair dealing in the interest of consumers. On November 26, 1973 (38 FR 32558), FDA established a quality standard for bottled water that is set forth in § 165.110 (21 CFR 165.110).

Producers of bottled water are responsible for assuring, through appropriate manufacturing techniques and sufficient quality control procedures, that all bottled water products introduced or delivered for introduction into interstate commerce comply with the quality standard (§ 165.110(b)). Bottled water that is of a quality that is below the prescribed standard is required by § 165.110(c) to be labeled with a statement of substandard quality. Moreover, any bottled water containing a substance at a level that causes the food to be adulterated under section 402(a)(1) of the act (21 U.S.C. 342(a)(1)) is subject to regulatory action, even if the bottled water bears a label statement of substandard quality.

FDA has traditionally fulfilled its obligation under section 410 of the act to respond to EPA's issuance of NPDWR's by amending the quality standard regulations for bottled water introduced or delivered for introduction

into interstate commerce to maintain compatibility with EPA's drinking water regulations. In general, FDA believes that, with few exceptions, EPA standards for contaminants in drinking water are appropriate as allowable levels for contaminants in the quality standard for bottled water when bottled water may be expected to contain the same contaminants.

FDA generally has not duplicated the efforts of EPA in judging the adequacy of MCL's or treatment techniques in NPDWR's for contaminants when determining their applicability to bottled water in order to protect the public health. FDA believes that, in general, it would be redundant for FDA to reevaluate the drinking water standards prescribed by EPA. Further, because bottled water is increasingly used in some households as a replacement for tap water, consumption patterns considered by EPA for tap water can be used as an estimate for the maximum expected consumption of bottled water by some individuals. Therefore, FDA's view is that generally in cases where bottled water is subject to the same contaminants as tap water, FDA should establish standard of quality levels in bottled water at the same levels that EPA establishes as MCL's for such contaminants in tap water.

In its proposed rule on disinfectants and DBP's (59 FR 38668), EPA introduced the term MRDL. As explained in section III of this document, EPA used this term when it first proposed enforceable disinfectant levels (MRDL's) to reflect the fact that disinfectants have beneficial properties. However, disinfectants may have adverse health effects (59 FR 38668 at 38679 through 38694) and they may be expected to be in some source waters used for bottled water. Therefore, FDA is proposing that disinfectants should be treated as contaminants when FDA establishes a standard of quality for bottled water in response to EPA's issuance of NPDWR's for drinking water.

B. Quality Standard for Disinfectants and DBP's

The quality standard for bottled water, as set forth in § 165.110(b)(4)(i)(A), prescribes that bottled water shall not contain TTHM in excess of 0.10 mg/L. It does not, however, prescribe allowable levels for bromate, chlorite, HAA5, chloramine, chlorine, or chlorine dioxide in bottled water.

FDA has evaluated the MRDL's for chloramine, chlorine, and chlorine dioxide and the MCL's for bromate, chlorite, HAA5, and TTHM that EPA has established for drinking water. FDA has tentatively concluded that EPA's MRDL's and MCL's for these contaminants, as standard of quality levels for bottled water, are adequate for the protection of the public health. Certain waters used for bottled drinking water may be expected to contain these contaminants; thus, FDA believes that adopting allowable levels for these contaminants will ensure that the quality of bottled water is comparable to the quality of public drinking water that meets EPA standards.

Therefore, FDA is proposing to establish in a new paragraph (b)(4)(iii)(H) in § 165.110, allowable levels for the following disinfectants and DBP's: chloramine at 4.0 mg/L (as Cl_2), chlorine at 4.0 mg/L (as Cl_2), chlorine dioxide at 0.8 mg/L (as ClO_2), bromate at 0.010 mg/L, chlorite at 1.0 mg/L, HAA5 at 0.060 mg/L, and TTHM at 0.080 mg/L. FDA is proposing to remove the existing entry for TTHM in § 165.110(b)(4)(i)(A).

C. Analytical Methods

In the Stage 1 DBPR that established MCL's for bromate, chlorite, HAA5, and TTHM and MRDL's for chlorine, chloramine, and chlorine dioxide, EPA stipulated that analyses for determining compliance with the MCL's and MRDL's shall be performed by approved analytical methods (63 FR 69390 at 69466). EPA has approved one method for bromate monitoring, two methods for monthly chlorite monitoring, three methods for HAA5 monitoring, three methods for TTHM monitoring, six methods for chloramine monitoring, seven methods for chlorine monitoring, and two methods for chlorine dioxide monitoring. Therefore, in a new paragraph (b)(4)(iii)(I) in § 165.110, FDA is proposing to incorporate by reference the 24 analytical methods cited by EPA (63 FR 69390 at 69417) for determining the levels of these contaminants in bottled water.

D. Monitoring Provisions of CGMP Regulations for Bottled Water

FDA has established CGMP regulations for bottled water in part 129 (21 CFR part 129). Under § 129.35(a)(3)(i), source water must be analyzed by the plant as often as necessary, but at least annually for chemical contaminants. Further, to ensure that a plant's production complies with applicable standards, § 129.80(g)(2) requires analysis by the plant, at least annually, of a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The CGMP regulation in § 129.80(a) also requires sampling and analysis, as often as necessary, of product water taken after processing but before bottling, to assure uniformity and effectiveness of the processes performed by the plant.

Disinfectants and DBP's are special types of contaminants in that they result from the deliberate addition of disinfectants to water to control microbial contamination. Since public water systems add disinfectants to water, FDA expects that source water from public water systems will contain disinfectants and DBP's. Therefore, FDA is proposing to require bottlers who obtain their source water from public water systems to test that water, as specified in § 129.35(a)(3)(i), for the disinfectants chloramine, chlorine, and chlorine dioxide, and the DBP's bromate, chlorite, HAA5, and TTHM, unless they meet the requirements contained in § 129.35(a)(4)(i). FDA believes that, in some cases, bottlers disinfect source water that is not from public water systems (e.g., prior to bulk transportation of that source water to the bottling plant). Such source water would contain residual disinfectants and also may contain DBP's. Therefore, FDA is proposing to add a new paragraph (a)(4)(iii) in § 129.35, stating that firms that do not use a public water system as the source of their water and whose source water has not been treated with a chlorine-based disinfectant or ozone do not have to test their source water for the residual disinfectants and DBP's listed in § 165.110(b)(4)(iii)(H). FDA is proposing that firms that do not use a public water system as the source of their water but whose source water has been treated with a chlorine-based disinfectant or ozone must test their source water for the residual disinfectants and the DBP's listed in § 165.110(b)(4)(iii)(H) that are likely to result from such treatment. Treatment of water with ozone is expected to produce the disinfection byproducts (or components of the disinfection byproducts) bromate, HAA5, and TTHM. Treatment of water with chlorine or chloramine is expected to produce the disinfection byproducts (or components of the disinfection byproducts) HAA5 and TTHM.

However, if the proposed changes to the quality standard regulations are finalized as proposed, all bottlers, whether or not they obtain their source water from public or nonpublic drinking water sources and whether or not they treat their water with chlorine, chloramine, chlorine dioxide, or ozone, would be required to test for the residual disinfectants chloramine,

chlorine, and chlorine dioxide and the DBP's bromate, chlorite, HAA5, and TTHM in their finished bottled water products under § 129.80(g)(2) in the CGMP regulations for bottled water. FDA believes that the potential for the presence of disinfectants and DBP's in the finished bottled water product exists. For example, some manufacturers may treat their water with a disinfectant during processing. Further, contamination of the bottled water product with disinfectants may occur during the manufacturing process, for example, if poor manufacturing practices are followed, such as inadequate rinsing of equipment that has undergone sanitizing operations. Section 129.80(d) in the CGMP regulations for bottled water allows for the use of disinfectants (ozone and chlorine-based disinfectants) for sanitizing operations.

Further, bottled water would have to comply with the sampling and testing requirements for disinfectants and DBP's under § 129.80(g)(2). In addition, bottled water would have to comply with the allowable levels for the disinfectants and DBP's in the quality standard for bottled water (§165.110 (b)) unless the label bears a statement of substandard quality under § 165.110(c). As stated in § 165.110(d), bottled water is deemed to be adulterated if it contains a substance at a level considered injurious to health under section 402(a)(1) of the act.

V. Environmental Impact

The agency has determined under 21 CFR 25.32(a) and 25.30(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Economic Impact

A. Initial Regulatory Impact Analysis

FDA has examined the economic implications of this companion proposed rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of $100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation is also considered a significant regulatory action if it raises novel legal or policy issues. FDA has determined that this companion proposed rule is not a significant regulatory action as defined by Executive Order 12866.

1. The Need for Regulation

In the **Federal Register** of December 16, 1998 (63 FR 69390), EPA published a final rule promulgating NPDWR's consisting of MRDL's for the disinfectants chlorine, chloramine, and chlorine dioxide; and MCL's for the DBP's bromate, chlorite, HAA5, and TTHM. Under section 410 of the act, when EPA promulgates a regulation establishing an MCL for a contaminant in public drinking water, FDA is required to issue a standard of quality regulation for that contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health. FDA's standard of quality regulations must also include appropriate monitoring requirements. If FDA does not issue a standard of quality regulation by 180 days before the effective date of EPA's NPDWR's, the NPDWR's become applicable to bottled water.

In the following analysis, FDA finds that issuing standard of quality regulations and monitoring requirements for these residual disinfectants and DBP's under FDA bottled water CGMP regulations has the highest net benefits. FDA's testing requirements are less costly than the testing requirements under our assumptions of how EPA NPDWR's would apply to bottled water, with the same health benefits, and the health benefits of testing for these contaminants outweigh the cost.

2. Cost of the Regulation

If FDA does not establish a regulation for quality standards for these residual disinfectants and DBP's, bottled water producers would be subject to NPDWR testing and monitoring requirements for these contaminants. Therefore, we consider this possibility the baseline for the purposes of this analysis. Also, we assume that the regulatory options we consider will have no organoleptic effect on the final bottled water product, and thus no impact on sales due to product quality, so the cost of the regulation will be limited to the direct cost of testing, recordkeeping, and possible disinfection technology investment.

Bottled water producers market their products based on meeting government safety testing requirements. However, any change in sales resulting from successful marketing either transfers revenue from one producer to another with no net loss to society, or causes increased sales of bottled water, which would mitigate the cost of this regulatory effort.

FDA considers three options for this analysis:

(1) FDA does not establish residual disinfectant and DBP quality standard regulations or make a finding that they are not necessary to protect the public health because these contaminants are not used in water used for bottled drinking water. Bottled water producers would be subject to the requirements set forth in the NPDWR's for these contaminants.

(2) FDA establishes residual disinfectant and DBP quality standard regulations. For these contaminants, bottled water producers would be subject to allowable levels in § 165.110 and CGMP monitoring requirements in part 129, as modified in this companion proposed rule.

(3) Bottled water producers are not subject to either FDA quality standard regulations or EPA NPDWR's for these residual disinfectants and DBP's.

Regarding option 3, because it is not the case that these contaminants are contained in water used in public drinking water sytems but not in water used for bottled drinking water, section 410(b)(1) of the Federal Food, Drug, and Cosmetic Act (the act) does not permit this option. The act specifies two alternatives: ''promulgate a standard of quality regulation under this subsection,'' or find that ''such a regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems * * * but not in water used for bottled drinking water.''

However, the Office of Management and Budget (OMB) cost-benefit analysis guidelines recommend discussing statutory requirements that affect the selection of regulatory approaches. These guidelines also recommend analyzing the opportunity cost of legal constraints that may prevent the selection of the regulatory action that best satisfies the philosophy and principles of Executive Order 12866. Our analysis finds that option 3 does not have the highest net benefits, therefore, even if option 3 were permissible, the statute does not preclude the option with the highest net benefits.

a. *Testing Costs*. Option 3 is the least cost option. If producers are not subject

to any disinfectant residual and DBP regulations, bottled water firms incur no additional costs. Firms already test for TTHM under the CGMP regulations, so the new lower bound of the TTHM test should cause only a small increase in cost per plant. However, the TTHM frequency differences still affect the choice between options 1 and 2, so we include TTHM testing in the analysis.

We assume the following testing frequency and requirements under option 1. This option considers the cost if bottled water facilities were subject to NPDWR's by interpreting how such requirements may apply to bottled water facilities. EPA bases testing frequencies for public water systems on the size of the population served by the treatment plant. Since bottled water plants do not fall into the size and type categories established in the 1998 Stage 1 DBPR regulations, for the purposes of this analysis, we assume that all bottled water facilities would be regulated as if they were a small ground water treatment system. This is the smallest category identified in the 1998 Stage 1 DBPR analysis.

EPA regulations also provide two testing process exemptions. If a public water system does not use ozone for oxidation or disinfection, then EPA does not require a bromate test; and if a public water system does not use chlorine dioxide for oxidation or disinfection, then EPA requires neither a chlorine dioxide nor a chlorite test. All plants have to test for HAA5, TTHM, chlorine, and chloramine regardless of disinfection method.

For this analysis, the bottled water industry would be subject to the following monitoring:

i. TTHM and HAA5: One test per plant per year, decreasing to one test per 3 years in the event of 1 or 2 years of very low levels of both TTHM and HAA5.

ii. Chlorite: A three-sample set per month only for plants using chlorine dioxide as a disinfectant. Reduced to a three-sample set per quarter if low levels of chlorites found in routine monitoring in a 1-year period.

iii. Bromate: One test per month only for plants using ozone for oxidation or disinfection. Reduced to one test per quarter if average water bromide is low, based on 1-year average of monthly samples.

iv. Chlorine and Chloramine: One test per plant per month. Monitoring may not be reduced.

v. Chlorine Dioxide: One test per day, at the distribution system entrance, only for plants using chlorine dioxide as a disinfectant. Monitoring may not be reduced.

Because few bottled water facilities use chlorine dioxide for disinfection, we assume that they all will qualify for the chlorite testing exemption. For the HAA5 and TTHM frequency requirements, we assume that one-third of the plants will qualify for the frequency reductions after 1 year, one-third will qualify for the reductions after 2 years, and one-third will continue to have to test once yearly. Finally, we assume that no bottled water facility will qualify for the bromate testing exemption, but that half of the plants will qualify for lower frequency testing under option 1.

For option 2, under 21 CFR § 129.35(a)(3), bottled water producers are required to test their source water for contaminants at least once per year unless exempted from such testing under § 129.35(a)(4). For example, bottled water facilities that use a public water source already subject to EPA regulations may substitute public water system testing results for source water testing. We assume that no facilities that use a public water source will need to test their source water for residual disinfectants and the DBP's likely to result from such treatment. Bottled water manufacturers that do not use a public water system as the source of their water and whose source water has not been treated with a chlorine-based disinfectant or ozone do not have to test their source water for these disinfectants and the DBP's. Manufacturers that do not use a public water system as the source of their water but whose source water has been treated with a chlorine-based disinfectant or ozone must test their source water for the residual disinfectants and the DBP's likely to result from such treatment. For example, some source water may be disinfected if it is transported across large distances prior to entering the bottled water plant. We assume in this analysis (explained below) that 75 percent of bottled water producers use nonpublic sources. Of these, we assume that one-third of bottled water producers using nonpublic water will need to test their source water. All bottled water producers are required to test their final bottled water product for contaminants at least once per year under § 129.80(g)(2).

Table 1 of this document contains the required annual testing frequencies for source and final product water for the four types of DBP's and three disinfectants under options 1 and 2. For this table, we split option 2 into 2a and 2b, referring to whether or not the facility uses a public water source. This table is for ''year 1'' testing; under our assumptions no firm has yet qualified for less frequent testing requirements under option 1. We assume that facilities will perform separate tests for free chlorine and combined chlorine (which detects chloramine) and that all facilities use ozone for oxidation or disinfection. Under option 2a, all facilities must perform at least one final product test annually, and 25 percent (one-third of the 75 percent of the facilities using a nonpublic water source) of facilities must perform an annual source water test, for an average of 1.25 tests per facility.

TABLE 1.—ANNUAL AVERAGE PLANT TESTING FREQUENCY

Test	Option 1 NPDWR's Apply	Option 2a CGMP Regulations Apply (Nonpublic Source Water)	Option 2 CGMP Regulations Apply (Public Source Water)
Bromate	12	1.25	1
Chlorite	0	1.25	1
TTHM	1	1.25	1
Chorine	12	1.25	1
Chlorine Dioxide	0	1.25	1

The cost estimates in table 2 of this document include labor, and are the same testing costs EPA used for the 1998 Stage 1 DBPR impact analysis (Ref. 1). FDA also collected other testing cost estimates (Ref. 2); the EPA testing costs generally are in the high end of the range of the estimates we collected. FDA considers EPA's cost estimates reliable

for this analysis. FDA believes it likely that a bottled water plant would be able to test for these substances at a cost close to this range. However, we do not define ''likely'' in any statistical sense. We examine the sensitivity of our final results to sample testing cost estimates.

TABLE 2.—ESTIMATED COST PER TEST

Test	Cost ($)
Bromate	100
Chlorite	125
TTHM	100
HAA5	200
Chlorine	20
Chloramine	20
Chlorine Dioxide	20

Table 3 of this document presents annual testing costs. Both option 2a and 2b cost estimates are considerably lower than option 1 (year 1) estimates for a typical bottled water plant, due to the less frequent required testing for bromate, chlorine, and chloramine.

TABLE 3. ANNUAL PLANT TESTING COSTS (DOLLARS)

Test	Option 1 NPDWR's Apply	Option 2a CGMP Regulations Apply (Nonpublic Source Water)	Option 2 CGMP Regulations Apply (Public Source Water)
Bromate	1,200	125	100
Chlorite	0	156.25	125
TTHM	100	125	100
HAA5	200	250	200
Chloramine	240	25	20
Chlorine Dioxide	0	25	20
Total	1,980	731.25	585

Table 4 of this document applies these totals and assumptions to the structure of the bottled water industry. We also recombine options 2a and 2b in this table. Approximately 1,550 plants produce bottled water (63 FR 25764, May 11, 1998). According to another database search conducted for this analysis, the industry contains only 914 plants that would be subject to these rules, but the current count may not include bottled water services to business. Because of this uncertainty, we estimate totals for both 914 and 1,550 plants. This affects neither the relative ranking of options nor the sensitivity analysis.

About 25 percent of bottled water products sold are produced by facilities that use public source water. Based on this, FDA assumes that 25 percent of bottled water plants use public source water, and that 75 percent use nonpublic sources (mostly ground water.) For ease of computation, table 4 of this document also assumes an equal distribution of the once per 3-year cost across later years, so one-third of the TTHM and HAA5 cost is incurred in any one year for plants meeting the less frequent testing requirements under option 1.

TABLE 4—TOTAL COST TO INDUSTRY (IN DOLLARS, ASSUMING 1,550 PLANTS)

Year	2002	2003	2004	2005
Option 2 (a and b)	1,076,766	1,076,766	1,076,766	1,076,766
Option 1	3,069,000	2,268,167	2,164,833	2,164,833

Assuming a 7 percent discount rate and no relative testing cost increases, the present (year 2001) value costs of the testing regimes are $18,787,984 (914 plants) to $31,861,461 (1,550 plants) under option 1 and $9,070,634 (914 plants) to $15,382,366 (1,550 plants) under option 2.

FDA ran a rough sensitivity analysis to determine how the range of testing costs, exemptions, and frequency assumptions affected the relative cost of options 1 and 2. This is a break-even analysis, which identifies how much the costs or assumptions would have to change in order to alter our conclusions.

(1) Testing costs; the major components of the higher option 1 cost are bromate, chlorine, and chloramine testing requirements. Even if bromate testing cost dropped to zero, option 1 cost would still be higher than option 2. If chorine and chloramine testing costs dropped to zero, and the cost of testing a water sample for bromate dropped from $100 to $52 (or if only 52 percent of bottled water plants have to test for bromate), the cost of options 1 and 2 would be roughly the same. This is in the range of the lowest bromate testing cost estimates collected by FDA (Ref. 2). TTHM and HAA5 testing costs do not have a significant impact on the relative cost of the options.

(2) Frequency and requirement exemptions; even if all bottled water plants qualified for less frequent bromate, TTHM, and HAA5 testing,

option 1 costs would still be higher than option 2 costs.

(3) Discount rate; since option 2 costs, under the original assumptions, were lower for every year, the option ranking is not affected by the choice of the discount rate.

FDA concludes that under the most likely assumptions and in a wide range around those assumptions, testing costs under option 1 exceed those under option 2.

b. *Recordkeeping costs*. Bottled water producers already must follow FDA CGMP requirements for other contaminants, so option two recordkeeping requirements may be lower in cost than option 1. Firms have sufficient experience with recordkeeping, so we believe that any cost differences are minimal.

c. *Residual disinfectants and DBP control costs*. The 1998 Stage I DBPR impact analysis estimated costs for public water systems to come into compliance if a test found unacceptable residual disinfectant or DBP levels. However, bottled water producers differ from public water suppliers in two ways. First, we assume one-fourth of bottled water producers use source water already subject to EPA regulations. For the purposes of this analysis, we assume they will not have to adopt any costly technology to come into compliance. Second, almost all producers who do not use public water systems for their source water use ground water. In the 1998 Stage I DBPR analysis, EPA estimated that only 12 percent of small ground water facilities will have to adopt new disinfection technology in order to avoid excessive residual disinfectants or DBP's. FDA considers this a high estimate of the number of bottled water plants that may need to adopt new technology, since these plants do not use as many different types of disinfectants. Therefore, at most only 9 percent (0.75 x 0.12) of bottled water plants may have to adopt new technology. FDA cannot discriminate between the EPA and FDA testing regimes under options 1 and 2 in terms of the degree to which they will require new disinfection technology in bottled water plants. Once again, no standards will guarantee that producers will not have to invest in new compliance technology, so option 3 would have the lowest cost.

3. Benefits of the Regulation

In this case, FDA assumes that both option 1 and option 2 adequately protect the health of the public. FDA cannot discriminate between options 1 and 2 in terms of their ability to guarantee the absence of residual disinfectants and DBP's in bottled water. Option 3 is the lowest cost, but in the 1998 Stage 1 DBPR analysis, EPA concluded that testing for these substances in water destined for human consumption has net positive benefits (63 FR 69390, December 16, 1998). Water used by bottled water producers, from both public and nonpublic sources, may need some manner of disinfection, so we believe the economic argument from the Stage 1 DBPR analysis applies equally well to bottled water. We do not estimate the number of illnesses avoided under these different testing options.

4. Net Benefits

Option 2 has lower testing costs and may have lower recordkeeping costs than option 1, and protects the health of the public at least as well as option 1. Option 2 also has higher net benefits than option 3, since the Stage 1 DBPR conclusion that testing for these substances has net positive benefits applies equally well to bottled water. Therefore, option 2, where FDA issues standard of quality regulations for these residual disinfectants and DBP's under part 165 and where the monitoring requirements in part 129 apply, has the highest net benefits.

B. Initial Small Entity Analysis

FDA has examined the economic implications of this companion proposed rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities. FDA finds that this proposed rule would have a significant economic impact on a substantial number of small entities.

This proposed rule would have an impact on small entities, but that impact would not be large. In addition, option 2 in the impact analysis is more flexible and has a smaller testing frequency burden than the NPDWR requirements for drinking water under option 1, therefore lowering the impact of this rule on small businesses while still protecting the public health. FDA also believes that adopting residual disinfectant and DBP standards yields net positive benefits regardless of the size of the bottled water facility, so option 2 in the impact analysis is more appropriate than option 3 for small businesses.

FDA also believes that the flexibility allowed in source testing requirements under option 2 in the impact analysis is the maximum amount of flexibility possible in this proposed regulation. FDA is not proposing exemptions for final product testing since there is a need to test for these disinfectant residuals and DBP's: Bottled water producers use these disinfectants, residual disinfectants and DBP's may be present in both public and nonpublic source water, and disinfectants may be used for equipment or other sanitation in any bottled water plant under CGMP regulations.

According to the latest database search across the bottled water industry mentioned above, approximately 72 percent of firms qualify as small by Small Business Administration (SBA) standards. Assuming the same exemptions and frequency requirements, the yearly average cost per plant for both small and large entities is between $585 (public source) and $731 (nonpublic source) for firms under the FDA requirements in option 2 in the impact analysis, and between $1,397 (year 3) and $1,980 (year 1) for the NPDWR requirements in option 1. We assume that almost all small entities in the bottled water industry are single plant firms. Although FDA does consider the option 2 higher cost of $731 per plant per year a significant impact for small firms, this number represents 0.13 percent of the $580,000 annual revenue of the median small bottled water firm.

C. *Unfunded Mandate*

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4), requiring cost-benefit and other analyses, in section 1531 (a) defines a significant rule as ''a Federal mandate that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any 1 year.'' FDA has determined that this proposed rule does not constitute a significant rule under the Unfunded Mandates Reform Act.

VII. Paperwork Reduction Act

FDA tentatively concludes that this proposed rule contains no collections of information. Therefore, clearance by the OMB under the Paperwork Reduction Act of 1995 is not required.

VIII. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this proposal on or before June 11, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this

document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

IX. Effective Date

The agency intends to make any final rule based on this proposal effective January 1, 2002. The agency will publish a confirmation notice for a final rule in the **Federal Register** no later than 180 days before the effective date. The agency is providing 180 days before the effective date to permit affected firms adequate time to take appropriate steps to bring their product into compliance with the standard imposed by the new rule.

X. References

1. U.S. EPA, Regulatory Impact Analysis of Final Disinfectant/Disinfection By-Products Regulations, Washington, DC, app. E, pp. E–4 and E–5, EPA 815–B–98–002. PB 99–111304, 1998.

2. Memorandum from Dominic Mancini to the record, March 13, 2001.

List of Subjects

21 CFR Part 129

Beverages, Bottled water, Food packaging, Reporting and recordkeeping requirements.

21 CFR part 165

Beverages, Bottled water, Food grades and standards, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 129 and 165 be amended as follows:

PART 129—PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER

1. The authority citation for 21 CFR part 129 continues to read as follows:

Authority: 21 U.S.C. 342, 348, 371, 374; 42 U.S.C. 264.

2. Section 129.35 is amended by redesignating paragraph (a)(4)(iii) as paragraph (a)(4)(iv) and by adding new paragraph (a)(4)(iii) to read as follows:

§ 129.35 Sanitary facilities.

* * * * *

(a) * * *

(4) * * *

(iii) Firms that do not use a public water system as the source of their water and whose source water has not been treated with a chlorine-based disinfectant or ozone do not have to test their source water for the residual disinfectants and DBP's listed in § 165.110(b)(4)(iii)(H) of this chapter. Firms that do not use a public water system as the source of their water but whose source water has been treated with a chlorine-based disinfectant or ozone must test their source water for the residual disinfectants and the DBP's listed in § 165.110(b)(4)(iii)(H) that are likely to result from such treatment.

* * * * *

PART 165—BEVERAGES

1. The authority citation for 21 CFR part 165 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 343-l, 348, 349, 371, 379e.

2. Section 165.110 is amended by revising paragraph (b)(1)(ii); by adding paragraphs (b)(1)(iii), (b)(4)(iii)(H), and (b)(4)(iii)(I); and in the table in paragraph (b)(4)(i)(A) by removing the entry for ''Organics: Total Trihalomethanes'' to read as follows:

§ 165.110 Bottled water.

* * * * *

(b) * * *

(1) * * *

(ii) *Total trihalomethanes* (TTHM) means the sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane, dibromochloromethane, bromodichloromethane, and tribromomethane), rounded to three significant figures.

(iii) *Haloacetic acids* (five) (HAA5) means the sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

(4) * * *

(iii) * * *

(H) The allowable levels for residual disinfectants and disinfection byproducts are as follows:

Substance	Concentration in milligrams per liter
Disinfection byproducts	
Bromate	0.010
Chlorite	1.0
Haloacetic acids (five) (HAA5).	0.060
Total Trihalomethanes (TTHM).	0.080
Residual disinfectants	
Chloramine	4.0 (as Cl_2)
Chlorine	4.0 (as Cl_2)
Chlorine dioxide	0.8 (as ClO_2)

(I) Analysis to determine compliance with the requirements of paragraph (b)(4)(iii)(H) of this section shall be conducted in accordance with an applicable method listed in paragraphs (b)(4)(iii)(I)(*1*) through (b)(4)(iii)(I)(*7*) of this section and described in ''Method 300.1, Determination of Inorganic Anions in Drinking Water by Ion Chromatography,'' Rev. 1.0, U.S. EPA, 1997, EPA/600/R–98/118; ''Methods for the Determination of Inorganic Substances in Environmental Samples,'' U.S. EPA, August 1993, EPA/600/R–93/100; ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement II,'' U.S. EPA, August 1992, EPA/600/R–92/129; ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1995, EPA/600/R–95/131; ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., American Public Health Association, 1995; and ''Annual Book of ASTM Standards,'' vol. 11.01, American Society for Testing and Materials, 1996, which are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the following publications are available from the National Technical Information Service (NTIS): EPA/600/R–95/131 (NTIS number PB95–261616), EPA/600/R–92/129 (NTIS number PB92–207703), EPA/600/R–93/100 (NTIS number PB94–121811), and EPA/600/R–98/118 (NTIS number PB98–169196). NTIS can be contacted at NTIS, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161, 1–800–553–6847 or 703–605–6000, www.ntis.gov. Copies of the publication EPA/600/R–98/118 are also available from the Chemical Exposure Research Branch, Microbiological and Chemical Exposure Assessment Research Division, National Exposure Research Laboratory, U.S. EPA, Cincinnati, OH 45268, 513–569–7757, (FAX) 513–569–7757. Copies of ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., are available from the American Public Health Association, 1015 15th Street, NW., Washington, DC 20005. All of the publications cited in paragraph (b)(4)(iii)(I) of this section may be examined at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC, or at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., Washington, DC 20204. Copies of ''Annual Book of ASTM Standards,'' 1996, vol. 11.01, are available from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohoken, PA 19428, or may be examined at the Office of the Federal Register. Copies of the methods incorporated by reference in paragraph (b)(4)(iii)(I) of this section may also be examined at the Center for Food Safety

and Applied Nutrition's Library, 200 C St. SW., Washington DC 20204.

(*1*) Bromate shall be measured using the following method: Method 300.1—''Determination of Inorganic Anions in Drinking Water by Ion Chromatography,'' Rev. 1.0, U.S. EPA, 1997, EPA/600/R–98/118, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*2*) Chlorite shall be measured using the following methods:

(*i*) Method 300.0—''Determination of Inorganic Anions by Ion Chromatography,'' Rev. 2.1. The revision is contained in the manual entitled ''Methods for the Determination of Inorganic Substances in Environmental Samples,'' U.S. EPA, August 1993, EPA/600/R–93/100, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 300.1—''Determination of Inorganic Anions in Drinking Water by Ion Chromatography,'' Rev. 1.0, U.S. EPA, 1997, EPA/600/R–98/118, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*3*) HAA5 shall be measured using the following methods:

(*i*) Method 552.1—''Determination of Haloacetic Acids and Dalapon in Drinking Water by Ion Exchange Liquid-Solid Extraction and Gas Chromatography with Electron Capture Detection,'' Rev. 1.0. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement II,'' U.S. EPA, August 1992, EPA/600/R–92/129, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 552.2—''Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-Liquid Extraction, Derivatization and Gas Chromatography with Electron Capture Detection,'' Rev. 1.0. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1993, EPA/600/R–95/131, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iii*) Method 6251 B—''Disinfection By-Products: Haloacetic Acids and Trichlorophenol,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*4*) TTHM shall be measured using the following methods:

(*i*) Method 502.2—''Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series,'' Rev. 2.1. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1993, EPA/600/R–95/131, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 524.2—''Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry,'' Rev. 1.0. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1993, EPA/600/R–95/131, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(iii) Method 551.1—''Determination of Chlorination Disinfection Byproducts, Chlorinated Solvents, and Halogenated Pesticides/Herbicides in Drinking Water by Liquid-Liquid Extraction and Gas Chromatography with Electron-Capture Detection,'' Rev. 1.0. The revision is contained in the manual entitled ''Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,'' U.S. EPA, August 1993, EPA/600/R–95/131, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*5*) Compliance with the chloramine standard can be determined by measuring combined or total chlorine. The following methods shall be used to measure chloramine:

(*i*) ASTM Method D1253-86—'' Standard Test Method for Residual Chlorine in Water,'' which is contained in the book entitled ''Annual Book of ASTM Standards,'' 1996, vol. 11.01, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 4500-Cl D—''Amperometric Titration Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iii*) Method 4500-Cl F—''DPD Ferrous Titrimetric Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iv*) Method 4500-Cl G—''DPD Colorimetric Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*v*) Method 4500-Cl E—''Low-Level Amperometric Titration Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*vi*) Method 4500-Cl I—''Iodometric Electrode Technique,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*6*) Compliance with the chlorine standard can be determined by measuring free or total chlorine. The following methods shall be used to measure chlorine:

(*i*) ASTM Method D1253-86—''Standard Test Method for Residual Chlorine in Water,'' which is contained in the book entitled ''Annual Book of ASTM Standards,'' 1996, vol. 11.01, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1

CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 4500-Cl D—''Amperometric Titration Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iii*) Method 4500-Cl F—''DPD Ferrous Titrimetric Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*iv*) Method 4500-Cl G—''DPD Colorimetric Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*v*) Method 4500-Cl E—''Low-Level Amperometric Titration Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*vi*) Method 4500-Cl I—''Iodometric Electrode Technique,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*vii*) Method 4500-Cl H—''Syringaldazine (FACTS) Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*7*) Chlorine dioxide shall be measured using the following methods:

(*i*) Method 4500-ClO_2 D—''DPD Method,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

(*ii*) Method 4500-ClO_2 E—''Amperometric Method II,'' which is contained in the book entitled ''Standard Methods for the Examination of Water and Wastewater,'' 19th Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(4)(iii)(I) of this section.

* * * * *

Dated: March 20, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–7562 Filed 3–23–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

[SPATS No. NA–004–FOR]

Navajo Abandoned Mine Land Reclamation Plan

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Navajo abandoned mine land reclamation (AMLR) plan (hereinafter, the ''Navajo plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Navajo Nation proposes to remove existing rules pertaining to noncoal reclamation after certification and exclusion of certain noncoal sites in view of rules it proposes to add elsewhere in its plan. The Navajo Nation proposes to add rules that will authorize it to: Restore lands and water adversely affected by past mineral mining, providing they reflect certain objectives and priorities; protect, repair, replace, construct, or enhance utilities; construct public facilities in communities impacted by coal and other mineral mining and processing practices; and, following specific criteria for grant applications to meet, request funds for activities or construction of specific public facilities related to the coal or minerals industry on Navajo Nation lands impacted by coal or mineral development. The Navajo Nation also proposes to add new provisions that will: Exclude certain noncoal reclamation sites; apply provisions in its Plan for land acquisition and liens to its noncoal program; establish limited liability provisions; and require every successful bidder for an AML contract to be eligible, as confirmed by OSM's Applicant Violator System, to receive a mining permit at the time of contract award. The Navajo nation intends to revise its plan to be consistent with the corresponding Federal regulations and to authorize it to undertake projects under section 411(f) of the Navajo Abandoned Mine Lands Reclamation Code.

DATES: We will accept written comments on this amendment until 4:00 p.m., Mountain Standard Time April 27, 2001. If requested, we will hold a public hearing on the amendment on April 23, 2001. We will accept requests to speak until 4:00 p.m., Mountain Standard Time April 12, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Willis Gainer, Albuquerque Field Office Director, at the address listed below.

You may review copies of the Navajo plan, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Albuquerque Field Office.

Mr. Willis Gainer, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, N.W., Suite 1200, Albuquerque, New Mexico 87102

Ms. Madeline Roanhorse, Director, Abandoned Mine Land Reclamation Department, The Navajo Nation, P.O. Box 1910, Window Rock, Arizona 86515, Telephone: 520–871–7593

FOR FURTHER INFORMATION CONTACT: Willis Gainer, Albuquerque Field Office Director; telephone: 505–248–5096; e-mail address: wgainer@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Navajo Plan

On May 16, 1988, the Secretary of the Interior approved the Navajo plan. You

can find general background information on the Navajo plan, including the Secretary's findings and the disposition of comments, in the May 16, 1988, **Federal Register** (53 FR 17186). You can also find later actions concerning the Navajo Nation's plan and plan amendments at 30 CFR 756.14.

II. Description of the Proposed Amendment

By letters dated March 2 and March 8, 2001, the Navajo Nation sent us a proposed amendment to its plan (NA–004–FOR, administrative records numbers NA–255 and NA–256) under SMCRA (30 U.S.C. 1201 *et seq.*). The Navajo Nation sent the amendment at its own initiative. The full text of the plan amendment is available for you to read at the locations listed above under **ADDRESSES.**

Specifically, the Navajo Nation proposes the following changes in its Plan:

A. *Subsection M.2, noncoal reclamation after certification:* The Navajo Nation proposes to remove existing rules at subsection M.2, M.2(a) and M.2(a)(1) through (a)(3) concerning noncoal reclamation after certification. It proposes to remove these rules in view of similar rules it proposes to add at new subsection O.2 in its Plan;

B. *Subsection O.1, Exclusion of Noncoal Reclamation Sites:* The Navajo Nation proposes to remove this existing rule that does not allow its AML program to fund reclamation of sites and areas designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) or that have been listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980. It proposes to add an identical provision at subsection O.6 in its Plan;

C. *Subsection O, Noncoal Reclamation After Certification:* The Navajo Nation proposes to remove the existing section heading, ''P. Reserved'' and replace it with ''O. NONCOAL RECLAMATION AFTER CERTIFICATION;''

1. Proposed subsection O.1 notes that subsection O applies to: Projects that restore lands and water adversely affected by past mineral mining; projects that protect, repair, replace, construct, or enhance utilities or facilities; and construction of public facilities in communities impacted by coal and other mineral mining and processing practices;

2. Proposed subsection O.2 establishes the three objectives and priorities that projects to restore lands and water adversely affected by past mineral mining must reflect;

3. Proposed subsection O.3 provides that enhancement of facilities or utilities (as provided under the second clause of proposed subsection O.1) may include upgrading needed to meet local, State, or Federal public health or safety requirements but it may not include any service area expansion not needed to address a specific abandoned mine land problem;

4. Proposed subsection O.4 authorizes the Navajo Nation to submit a grant application for funds to pay for activities for construction of specific public facilities related to the coal or minerals industry on Navajo Nation lands impacted by coal or mineral development if, notwithstanding the requirements of proposed subsection O.1, the Navajo Nation President (subject to applicable laws) determines they are needed;

5. Proposed subsection O.5 through O.5(h) establish the criteria that the Navajo Nation's grant applications requesting funds under proposed subsection O.4 and section 411(f) of the Navajo Abandoned Mine Lands Reclamation Code must meet;

6. Proposed subsection O.6 prohibits the Navajo Nation from spending AML program funds to reclaim sites and areas designated for remedial action under UMTRCA or listed for remedial action under CERCLA;

7. Proposed subsection O.7 applies the requirements of subsections II.H (Acquisition, Management and Disposition of Lands and Water) and II.J (Rights of Entry) of the Plan to the Navajo Nation's noncoal program using the word ''noncoal'' in lieu of the word ''coal'';

8. Proposed subsection O.8 applies the requirements of subsection II.I (Reclamation on Private Land) to the Navajo Nation's noncoal program using the word ''noncoal'' in lieu of the word ''coal'';

9. Proposed subsection O.9 describes those conditions under which the Navajo Nation will, and will not, be liable under Federal, State, or Tribal law for costs or damages as a result of action taken or omitted in the course of carrying out its Plan; and

10. Proposed subsection O.10 requires every successful bidder for a Navajo AML contract to be eligible at the time of contract award, under OSM's Applicant Violator System, to receive a permit or conditional permit to conduct surface coal mining operations.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we request your comments on whether the amendment satisfies the applicable program criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Navajo program.

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office.

Electronic Comments

Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. NA–004–FOR'' and your name and return address in your Internet message, contact the Albuquerque Field Office at 505–248–5096.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents requested confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., Mountain Standard Time, April 12, 2001. If you are disabled and need special accommodations to attend a public hearing, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible,

that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866, Regulatory Planning and Review.

Executive Order 12988—Civil Justice Reform

The Department of the Interior conducted the reviews required by section 3 of Executive Order 12988 and determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of Tribal AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific Tribe, not by OSM. Decisions on proposed Tribal AMLR plans and revisions thereof submitted by a Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

National Environmental Policy Act

This rule does not require an environmental impact statement because agency decisions on proposed Tribal AMLR plans and plan revisions are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction act

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

Regulatory Flexibility Act

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

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(s), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices of consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that Navajo Nation submittal that is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

OSM determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 756

Abandoned mine reclamation programs, Indian lands, Surface mining, Underground mining.

Dated: March 13, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 01–7532 Filed 3–27–01; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–01–008]

RIN–2115–AE47

Drawbridge Operation Regulations; Cheboygan River, MI

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the operating regulation governing the U.S. 23 bridge at mile 0.9 over Cheboygan River in Cheboygan, Michigan. The proposed rule would revise the advance notice requirement for vessels during winter months. Currently, vessels provide 24-hour notice between December 15 and March 15. The proposed schedule would require vessels to provide 12-hour advance notice between December 15 and April 1 each year. This schedule would relieve the bridge owner from maintaining operators during periods of no vessel traffic each year, while still providing for bridge openings.

DATES: Comments must be received on or before May 29, 2001.

ADDRESSES: Comments may be mailed or delivered to: Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH, 44199–2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 902–6084.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, Ninth Coast Guard District Bridge Branch, at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments for or against this rule. Persons submitting comments should include names and addresses, identify the rulemaking [CGD09–01–008] and the specific section of this proposal to which each comment applies, and give the reason(s) for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard plans no public hearing. Individuals may request a public hearing by writing to the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentation will aid this rulemaking, we will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The owner of the U.S. 23 bridge, Michigan Department of Transportation (MDOT), requested the Coast Guard approve a modified schedule for the winter operations of the bridge. MDOT requested vessels provide 12-hour advance notice between December 15 and April 15 each year. Commander, Ninth Coast Guard District, determined that this schedule would not serve the reasonable needs of navigation, and specifically, would adversely affect a ferry service company with established routes between Cheboygan and other island communities. The ferry service resumes its scheduled transits as early as weather permits in the spring. The ferry service is also used as an occasional platform for transporting emergency medical personnel between the communities. For this reason, and from information gathered from bridge opening logs submitted by MDOT, the Coast Guard agreed to propose a 12-hour advance notice requirement for vessels between December 15 and April 1.

Discussion of Proposed Rule

The current operating schedule for the U.S. 23 bridge is governed by 33 CFR. Under this proposed rule, only the dates and advance notice time would be revised during winter months. Since the focus of this proposed change would primarily affect the dates that the bridge should be attended in the spring, the following bridge opening data concerns openings for vessels between March 15 and April 15 for the past 3 years: In 1998, there were no openings between March 15 and April 1, and 17 openings between April 2 and April 15. All of these openings were for the ferry vessel mentioned in Background and Purpose. In 1999, there were no openings between March 15 and April 1, with 3 openings between April 2 and April 15. Two of the three openings were for the ferry vessel.

In 2000, there were no openings between March 15 and April 15. In the winter and spring of 2000, the ferry vessel was drydocked for maintenance and repairs, and scheduled to return to service around April 15. The current regulation requires the bridge to open as soon as possible at all times for commercial vessels and vessels used for public safety. There would be no revision to that requirement.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the relatively minor adjustment to the operating schedule near the end of the winter navigation season, the only documented vessel that would require openings has been identified and accommodated, and the bridge would still open for vessels once the advance notice is provided.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule will have a significant impact on a substantial number of small entities. ''Small entities'' may include small businesses and 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 people.

The 12-hour advance notice requirement during winter months is a standard practice on the Great Lakes and still provides for bridge openings with advance notice from vessel operators. No identified entities would be unable to pass the bridge, as needed.

Therefore, the Coast Guard certifies under 5 U.S.C 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 13132, and determined that this rule does not have federalism implications 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 having first provided the funds to pay those unfunded mandate costs. This proposed rule will not impose an unfunded mandate.

Taking of Private Property

This proposed rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk

to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This proposed rule changes a drawbridge regulation which has been found not to have a significant effect on the environment. A ''Categorical Exclusion Determination'' is not required.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, the Coast Guard proposes to revise Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.627, paragraphs (a), (b) and (c) are revised to read as follows:

§ 117.627 Cheboygan River.

* * * * *

(a) From April 1 through May 15 and from September 16 through December 14, the draw shall open on signal.

(b) From May 16 through September 15—

(1) Between the hours of 6 p.m. and 6 a.m., seven days a week, the draw shall open on signal.

(2) Between the hours of 6 a.m. and 6 p.m., seven days a week, the draw need open only from three minutes before to three minutes after the quarter-hour and three-quarter hour.

(c) From December 15 through March 31, no bridgetender is required to be at the bridge and the draw need not open unless a request to open the draw is given at least 12-hours in advance of a vessel's intended time of passage through the draw.

* * * * *

Dated: March 12, 2001.

James D. Hull,

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

[FR Doc. 01–7623 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 01–66; FCC 01–88]

Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes various revisions to the rules regarding the Emergency Alert System (EAS) and also seeks comment on requested revisions to the rules set forth in petitions for rulemaking filed by the National Weather Service (NWS) and the Society of Broadcast Engineers (SBE).

DATES: Comments are due June 11, 2001, and reply comments are due July 11, 2001.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. Comments may also be filed electronically using the Commission's Electronic Comment Filing System (ECFS). Comments filed through the ECFS can be sent as an electronic file via the internet to http://www.fcc.gov/e-file/ecfs.html.

FOR FURTHER INFORMATION CONTACT: Kathy Berthot, Enforcement Bureau, Technical and Public Safety Division, at (202) 418–7454.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 01–88, in EB Docket No. 01–66, adopted on March 13, 2001, and released on March 20, 2001. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC, and may be purchased from the Commission's copy contractor, International Transcription Services, Inc., 445 12th Street, SW., Room CY–B400, Washington, DC, (202) 857–3800. The complete text may also be downloaded from the Commission's internet site at http://www.fcc.gov.

I. Synopsis of the Notice of Proposed Rulemaking

1. In this NPRM, the Commission proposes revisions to part 11 of the rules regarding the EAS and also seeks comment on requested revisions to the part 11 rules set forth in petitions for rulemaking filed by the NWS and the SBE.

2. The Commission proposes to amend part 11 to: (1) Increase the relay window within which Required Monthly Tests of the EAS must be retransmitted from 15 minutes to 60 minutes; (2) reduce the required modulation level of EAS codes from 80% to 50% of full channel modulation limits; (3) delete references to the Emergency Action Notification network, which was eliminated in 1995 in accordance with a directive from President Clinton to the Director of the Federal Emergency Management Agency; and (4) eliminate the requirement that international High Frequency broadcast stations purchase and install EAS equipment.

3. The Commission seeks comment on requests that we amend the list of state and local EAS event codes to add new event codes for emergency conditions not included in the current list; amend the list of location codes to add new location codes to cover marine areas; and adopt a naming convention for state and local event codes. A complete listing of the requested additions to the lists of EAS event codes and location codes can be found in Appendix A and Appendix B of the NPRM. As an alternative to amending the lists of State and local event codes and location codes, the Commission seeks comment on whether we should amend part 11 to provide that any modifications to existing authorized EAS equipment that are necessary to implement revisions in EAS codes are Class I permissive changes which do not require a new application for and grant of certification by the Commission. Under this alternative, additional State and local event and location codes could be developed directly by State and local officials, broadcasters and cable operators, equipment manufacturers and other interested parties. The use of these additional codes and the equipment needed to access them would be implemented on a permissive basis as determined by the specific needs and interests of the local area participants.

4. The Commission also seeks comment on requests that we add a protocol for text transmission of EAS messages; permit the carriage of audio of Presidential EAS messages from non-EAS sources; and permit equipment manufacturers to include an optional feature in EAS equipment that would afford EAS users the capability to select only certain received EAS messages for processing.

II. Administrative Matters

A. Initial Regulatory Flexibility Analysis

5. This is a summary of the Initial Regulatory Flexibility Analysis (IRFA) in the NPRM. The full text of the IRFA can be found in Appendix C of the NPRM.

6. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this IRFA of the possible significant economic impact on small entities by the policies and rules proposed in this NPRM. 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Fairness Enforcement Act of 1996. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

7. Need for, and Objectives of, the Proposed Rules. In this NPRM, the Commission proposes various revisions to the part 11 rules governing the EAS and seeks comment on requested revisions to the part 11 rules set forth in petitions for rulemaking filed by the NWS and the SBE. The requested revisions are intended to enhance the capabilities of EAS equipment, reduce burdens on EAS participants, and improve the overall performance of the EAS.

8. Legal Basis. Authority for the actions proposed in this NPRM may be found in Sections 1, 4(i) and (o), 303(r), 624(g) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (o), 303(r), 554(g) and 606.

9. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

10. Television and radio stations. The proposed rules would apply to television broadcasting licensees and radio broadcasting licensees. The SBA defines a television broadcasting station that has $10.5 million or less in annual receipts as a small business. Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials. There were 1,509 television stations operating in the nation in 1992. That number has remained fairly constant as indicated by the approximately 1,663 operating television broadcasting stations in the nation as of September 30, 2000. For 1992, the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.

11. The SBA defines a radio broadcasting station that has $5 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations, which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than $5 million in revenue in 1992. Official Commission records indicate that 11,334 individual radio stations were operating in 1992. As of September 30, 2000, Commission records indicate that 12,717 radio stations were operating.

12. Thus, the rules may affect approximately 1,663 full power television stations, approximately 1,280 of which are considered small businesses. The proposed rules may also affect 12,717 full power radio stations, approximately 12,208 of which are small businesses. These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 2,395 low power television (LPTV) stations. Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

13. Cable systems. The proposed rules would also affect small cable systems. The SBA has developed a definition of small cable entities, which includes all such companies generating $11 million or less in revenue annually. This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $11 million in revenue.

14. The Commission has developed its own definition of a ''small cable system'' for purposes of the EAS rules. Cable systems serving fewer than 10,000 subscribers per headend are considered small cable systems and are afforded varying degrees of relief from the EAS rules. Based on our most recent information, we estimate that there are 8,552 cable systems that serve fewer than 10,000 subscribers per headend. Consequently, we estimate that there are fewer than 8,552 small cable systems that may be affected by the rules proposed herein.

15. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 67,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data,

we find that the number of cable operators serving 660,000 subscribers or less totals 1,450. We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

16. Multipoint Distribution Systems. The Commission has defined ''small entity'' for purposes of the auction of MDS frequencies as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas. Of 67 winning bidders, 61 qualified as small entities. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees.

17. MDS also includes licensees of stations authorized prior to the auction. As noted, the SBA has developed a definition of small entities for pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes MDS and thus applies to MDS licensees that did not participate in the MDS auction. Information available to us indicates that there are approximately 392 incumbent MDS licensees that do not generate revenue in excess of $11 million annually. Therefore, we find that there are approximately 440 small MDS providers as defined by the SBA and the Commission's auction rules which may be affected by the rules proposed herein.

18. Instructional Television Fixed Service. The SBA definition of small entities for pay television services also appears to apply to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, we do not collect annual revenue data for ITFS licensees, and are not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, we tentatively conclude that at least 1,932 ITFS are small businesses and may be affected by the proposed rules.

19. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. There are no reporting or recordkeeping requirements proposed in the NPRM. The proposals set forth in the NPRM are, for the most part, intended to enhance the performance of the EAS during state and local emergencies. We emphasize that participation in state and local EAS activities remains voluntary and that we do not wish to impose additional costs or burdens on broadcast stations and cable systems that choose not to participate in state and local area EAS plans. The NPRM seeks comment on suggested additions and revisions to the EAS digital header codes used in the transmission of state and local EAS alerts. In addition, the NPRM proposes to increase the time period for retransmitting Required Monthly Tests of the EAS system and to reduce the modulation level for EAS codes. These proposals would lessen operational burdens on EAS participants. The NPRM also seeks comment on various suggestions by NWS and SBE to revise EAS operational and equipment requirements.

20. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

21. In setting forth the proposals contained in this NPRM, we have attempted to minimize the burdens on all entities. We seek comment on the impact of our proposals on small entities and on any possible alternatives that would minimize the impact on small entities.

22. Federal Rules that Duplicate, Overlap, or Conflict with the Proposed Rules. None.

B. Ex Parte Presentations

23. This NPRM is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission rules.

C. Filing of Comments and Reply Comments

24. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 11, 2001, and reply comments on or before July 11, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

25. Comments filed through ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and instructions will be sent in reply. Or you may obtain a copy of the ASCII Electronic Transmittal Form (FORM–ET) at http://www.fcc.gov/e-file/email.html.

26. Parties who choose to file by paper must file an original and four copies of each filing. If commenters want each Commissioner to receive a personal copy of their comments, they must file an original and nine copies. Also, if more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, D.C. 20554. Copies of all filings are available for public inspection and copying during regular business hours at the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, D.C. 20554.

D. Initial Paperwork Reduction Act Analysis

27. This NPRM does not propose a new or modified information collection.

E. Ordering Clauses

28. Pursuant to the authority contained in Sections 1, 4(i) and (o), 303(r), 624(g) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (o), 303(r), 554(g) and 606, the NPRM in EB Docket No. 01–66 is adopted.

29. The FCC's Consumer Information Bureau, Reference Information Center, shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

List of Subjects in 47 CFR Part 11

Radio, Television.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–7613 Filed 3–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–692; MM Docket No. 01–68; RM–10087]

Radio Broadcasting Services; Bordelonville, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition for rule making filed by Bramah Broadcasting proposing the allotment of Channel 280A to Bordelonville, LA, as the community's first local aural transmission service. Channel 280A can be allotted to Butler in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 31–06–18 North Latitude and 91–54–26 West Longitude.

DATES: Comments must be filed on or before May 7, 2001, and reply comments on or before May 22, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Roosevelt Gremillion, Bramah Broadcasting, LLC, 8677 St. Joseph St., New Roads, LA 70760 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, and (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–68; adopted March 7, 2001 and released March 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Bordelonville, Channel 280A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–7609 Filed 3–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–683; MM Docket No. 01–67, RM–10084]

Radio Broadcasting Services; Abingdon and Canton, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Abingdon Broadcasters proposing the allotment of Channel 252A at Abingdon, Illinois, as that community's first local FM service. The coordinates for Channel 252A at Abingdon are 40–42–28 and 90–19–47. There is a site restriction 12.3 kilometers (7.7 miles) southeast of the community. To accommodate Channel 252A at Abingdon, we shall also propose the substitution of Channel 277A for vacant Channel 252A at Canton, Illinois. The coordinates for Channel 277A at Canton are 40–28–27 and 90–03–01. There is a site restriction 9.4 kilometers (5.8 miles) south of the community.

DATES: Comments must be filed on or before May 7, 2001, and reply comments on or before May 22, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John F. Garziglia, Pepper & Corazzini, LLP, 1776 K Street, NW., Suite 200, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–67, adopted March 7, 2001, and released March 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Abingdon, Channel 252A, and by removing Channel 252A and adding Channel 277A at Canton.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–7611 Filed 3–27–01; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 66, No. 60
Wednesday, March 28, 2001

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

Office of the Under Secretary, Research, Education, and Economics

Notice of the Advisory Committee on Agricultural Biotechnology Meeting

AGENCY: Agricultural Research Service, Agriculture.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces a meeting of the Advisory Committee on Agricultural Biotechnology (ACAB).

SUPPLEMENTARY INFORMATION: The fourth meeting of the ACAB has been scheduled for April 17–18, 2001. The topics to be discussed will include: (1) Continued discussion on the roles and activities of the USDA's public plant breeding program; (2) continued discussion on gene flow from transgenic crops to other plants and current and potential USDA roles in addressing the issues presented; and (3) developing a framework for discussion of biotechnology budget priorities. There will in addition be several updates on current biotechnology developments, including the Starlink® corn situation, and on ongoing USDA biotechnology-related activities. Background information regarding the work of the ACAB is available on the USDA web site at *http://www.usda.gov/agencies/biotech/acab.html.* Members of the public who wish to make oral statements should also inform Dr. Schechtman in writing or via E-mail at the indicated addresses at least three business days before the meeting. On April 17, 2001, if time permits, reasonable provision will be made for oral presentations of no more than five minutes each in duration.

DATES: The meeting will be held in the New Hampshire Room at the Wyndham City Center Hotel, 1143 New Hampshire Ave., NW, Washington, DC 20037, on April 17–18, 2001. The meeting is scheduled to run from 8:30 am until 5:30 pm on both April 17 and 18. The meeting will be open to the public, but space is limited. If you would like to attend the meetings, you must register by contacting Ms. Vanessa Simon at (202) 690–8647, by fax at (202) 720–3191 or by E-mail at *vsimon@ars.usda.gov* at least 5 days prior to the meeting. Please provide your name, title, business affiliation, address, telephone, and fax number when you register. If you require a sign language interpreter or other special accommodation due to disability, please indicate those needs at the time of registration.

FOR FURTHER INFORMATION CONTACT: Michael Schechtman, Designated Federal Official, Office of the Deputy Secretary, USDA, 202B Jamie L. Whitten Federal Building, 12th and Independence Avenue, SW., Washington, DC 20250; Telephone (202) 720–3817; Fax (202) 690–4265; E-mail *mschechtman@ars.usda.gov.*

Floyd P. Horn,

Administrator.

[FR Doc. 01–7649 Filed 3–27–01; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on April 11, 2001 at the Warm Springs Power Enterprises Conference Room located at 5180 Jackson Trail Road in Warm Springs, Oregon. A business meeting will begin at 9:30 am and finish at 4:00 pm. Agenda items will include a Review of Subcommittee Work and Finalize Goals and Actions, Monitoring Presentation and Q&A, Info Sharing and a Public Forum from 3:30 pm till 4:00 pm. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Bent-Ft. Rock Ranger District, 1230 N.E. 3rd., Bend, OR, 97701, Phone (541) 416–6872.

Dated: March 22, 2001.

Leslie A.C. Weldon,

Deschutes National Forest Supervisor.

[FR Doc. 01–7604 Filed 3–27–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comment request.

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 Section 502 Rural Housing Demonstration Program.

DATES: Comments on this notice must be received by May 29, 2001 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Gloria L. Denson, Loan Specialist, Single Family Housing Direct Loan Division, RHS, U.S. Department of Agriculture, STOP 0783, South Building, Washington, DC 20250, Telephone 202–720–1474. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Title: Section 502 Rural Housing Demonstration Program.

OMB Number: 0575–0114.

Expiration Date of Approval: August 31, 2001.

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

Abstract: Under Section 506 (b), RHS may provide loans for innovative housing units and systems which do not meet existing published standards, rules, regulations or policies. The intended effect is to increase the availability of affordable rural housing for low-income families through innovative designs and systems.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 80 hours to

complete the application, Proposal Content and Criteria, including additional material, specifications and blueprints.

Respondents: Business or other for-profit.

Estimate Number of Respondents: 25.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,000 hours.

Copies of this information collection can be obtained from Tracy Gillin, 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 estimates 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Renita Bolden, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, Stop 0742, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 19, 2001.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 01–7628 Filed 3–27–01; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: International Import Certificate.

Agency Form Number: BXA–645P.

OMB Approval Number: 0694–0017.

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

Burden: 156 hours.

Average Time Per Response: 16 minutes per response.

Number of Respondents: 585 respondents.

Needs and Uses: The United States and several other countries have undertaken to increase the effectiveness of their respective controls over international trade in strategic commodities by means of an Import Certificate procedure. For the U.S. importer, this procedure provides that, where required by the exporting country with respect to a specific transaction, the importer certifies to the U.S. Government that he/she will import specific commodities into the United States and will not reexport such commodities except in accordance with the export control regulations of the United States. The U.S. Government, in turn, certifies that such representations have been made.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: March 22, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–7591 Filed 3–27–01; 8:45 am]

BILLING CODE 3510–33–U

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Short Supply Regulations, Petroleum (Crude Oil).

Agency Form Number: None.

OMB Approval Number: 0694–0027.

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

Burden: 104 hours.

Average Time Per Response: 4 to 10 hours per response.

Number of Respondents: 15 respondents.

Needs and Uses: The information is collected in the form of supporting documentation for license applications to export petroleum (crude oil) and is used by licensing officers to determine the exporter's compliance with the 5 statutes governing this collection.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6066, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: March 22, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–7592 Filed 3–27–01; 8:45 am]

BILLING CODE 3510–33–U

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–570–504]

Petroleum Wax Candles From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review

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

ACTION: Notice of initiation of antidumping duty new shipper review.

SUMMARY: The Department of Commerce (the Department) has received a request

from Shanghai New Star Im/Ex Co., Ltd. (Shanghai) to conduct a new shipper review of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC). In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended, and 19 CFR 351.214(d), we are initiating this new shipper review.

EFFECTIVE DATE: March 28, 2001.

FOR FURTHER INFORMATION CONTACT: Abdelali Elouaradia or Matthew Renkey, AD/CVD Enforcement, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1374 or (202) 482–2312, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR Part 351 (2000).

Background

On February 28, 2001, the Department received a timely request from Shanghai, pursuant to section 751(a)(2)(B) of the Act and in accordance with 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on petroleum wax candles from the PRC. This order has a February semiannual anniversary month. On March 14 and 16, 2001, Shanghai clarified in additional submissions that it had only one shipment during the period of review (POR) and that there have been no additional shipments of the subject merchandise to the United States, pursuant to 19 CFR 351.214(b)(2)(iv)(B).

Initiation of Review

Pursuant to 19 CFR 351.214(b)(2)(i) and 19 CFR 351.214(b)(2)(iii)(A), in its February 28, 2001 request for review, Shanghai certified that it did not export the subject merchandise to the United States during the period of investigation (POI) and that it is not affiliated with any company which exported subject merchandise to the United States during the POI. Pursuant to 19 CFR 351.214(b)(2)(iii)(B), Shanghai further certified that its export activities are not controlled by the central government of the PRC. Also, in accordance with 19 CFR 351.214(b)(2)(iv), Shanghai submitted documentation showing the date on which subject merchandise entered the United States, the volume of that shipment, and the date of the first sale to an unaffiliated customer in the United States.

Therefore, in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d), we are initiating a new shipper review of the antidumping duty order on petroleum wax candles from the PRC. In accordance with 19 CFR 351.214(h)(i), we intend to issue the preliminary results of this review not later than 180 days from the date of publication of this notice. All provisions of 19 CFR 351.214 will apply to Shanghai throughout the duration of this new shipper review.

In accordance with 19 CFR 351.214(g)(1)(i)(A), the POR for a new shipper review initiated in the month immediately following the semiannual anniversary month is the six-month period immediately preceding the semiannual anniversary month. Therefore, the POR for this new shipper is:

Antidumping duty proceeding	Period to be reviewed
Petroleum Wax Candles from the PRC, A–570–504:	
Shanghai New Star Im/Ex Co., Ltd.	8/01/00–1/31/01

Concurrent with the publication of this initiation notice, and in accordance with 19 CFR 351.214(e), effective on the date of publication of this notice we will instruct the U.S. Customs Service to suspend liquidation of any unliquidated entries of the subject merchandise from the relevant exporter or producer, and allow, at the option of the importer, the posting until the completion of this review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise exported by the company listed above.

Interested parties may submit applications for disclosure of business proprietary information under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: March 21, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–7651 Filed 3–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Porcelain-On-Steel Cooking Ware: Recission of Antidumping Duty Administrative Review

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

ACTION: Notice of rescission of antidumping duty administrative review: porcelain-on-steel cooking ware from the People's Republic of China.

SUMMARY: On January 31, 2001, the Department of Commerce published in the **Federal Register** a notice announcing the initiation of an administrative review of the antidumping duty order on porcelain-on-steel (''POS'') cooking ware from the People's Republic of China for one producer of POS cooking ware from the People's Republic of China, Clover Enamelware Enterprises Ltd. (''Clover''), and its affiliated reseller, Lucky Enamelware Factory, Ltd. (''Lucky'') covering the period December 1, 1999 through November 30, 2000. The Department of Commerce received a request for withdrawal of this review from Clover, Lucky and CGS, a U.S. importer of POS cooking ware, who collectively requested the review. In accordance with 19 CFR 351.213(d)(1), the Department of Commerce is now rescinding this review because the producer, its affiliated reseller, and a U.S. importer of scope merchandise have timely withdrawn their request for review and no other interested parties have requested a review.

EFFECTIVE DATE: March 28, 2001.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Geoffrey Craig, Office of AD/CVD Enforcement VI, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3965, or (202) 482–4161, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, (''the Act'') are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the

Department's'') regulations are to 19 CFR Part 351 (2000).

Background

On December 20, 2000, we published in the **Federal Register** the ''Notice of opportunity to request an administrative review'' of this order for the period December 1, 1999 through November 30, 2000 (65 FR 79802). On December 8, 2000, Clover, Lucky, and CGS, an importer of POS cooking ware manufactured by Clover and sold by Lucky, requested that the Department conduct an administrative review of the antidumping duty order on POS cooking ware from the People's Republic of China produced by Clover and sold by Lucky.

On January 31, 2001, the Department initiated an administrative review (66 FR 8378). On February 5, 2001, the Department sent a questionnaire to the counsel representing Clover and Lucky. On March 1, 2001, we received a letter on behalf of Clover and Lucky withdrawing their request for a review. On March 7, 2001, we received a letter from CGS also withdrawing its request for a review.

Section 19 CFR 351.213(d)(1) of the Department's regulations provides that the Secretary may permit a party that requests a review to withdraw the request within 90 days after the date of publication of the notice of initiation of the requested review. The Department of Commerce is now rescinding this review because the requesting parties have withdrawn their request for review within the 90 day time limit and no other interested parties have requested a review. This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 20, 2001.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–7654 Filed 3–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Stainless Steel Flanges from India

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

ACTION: Notice of initiation of new shipper review.

SUMMARY: The Department of Commerce has received a request for a new shipper review of the antidumping duty order on certain forged stainless steel flanges (flanges) from India issued on February 9, 1994 (59 FR 5994). In accordance with our regulations, we are initiating a new shipper review covering Metal Forgings Private Limited/Metal Rings and Bearing Races Limited (Metal Forgings).

EFFECTIVE DATE: March 28, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or Michael Heaney, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–5222 or (202) 482–4475, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 351 (2000).

Background

The Department received a timely request, in accordance with section 751(a)(2)(B) of the Tariff Act and 19 CFR 351.214(b) of the Department's regulations, for a new shipper review of the antidumping duty order on flanges from India, which has a February anniversary date. (*See* Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value, 59 FR 5994 (February 9, 1994). *See also* letter to the Secretary of Commerce from law firm of Ablondi, Foster *et al*, February 28, 2001, requesting a new shipper review.

Initiation of Review

Pursuant to the Department's regulations at 19 CFR 351.214(b), Metal Forgings certified in its February 28, 2001 submission that it did not export subject merchandise to the United States during the period of the investigation (POI) (July 1, 1992 through December 31, 1992), and that it was not affiliated with any exporter or producer of the subject merchandise to the United States during the POI. Metal Forgings submitted documentation establishing the date on which it first shipped the subject merchandise for export to the United States, the volume shipped, and the date of the first sale to an unaffiliated customer in the United States.

In accordance with section 751(a)(2)(B) of the Tariff Act and section 351.214(d) of the Department's regulations, we are initiating a new shipper review of the antidumping duty order on flanges from India. This review covers the period February 1, 2000 through January 31, 2001. We intend to issue the final results of the review no later than 180 days from the date of publication of this notice.

We will instruct the Customs Service to suspend liquidation of any unliquidated entries of the subject merchandise from Metal Forgings, and allow, at the option of the importer, the posting, until completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by Metal Forgings, in accordance with 19 CFR 351.214(e).

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305(b).

This initiation and this notice are in accordance with section 751(a) of the Tariff Act (19 U.S.C. 1675(a)) and section 351.214 of the Department's regulations.

Dated: March 21, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–7652 Filed 3–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade

Administration, Department of Commerce.

ACTION: Notice of decision of panel.

SUMMARY: On March 20, 2001 the binational panel issued its decision in the review of the final antidumping duty determination made by the International Trade Administration, respecting Corrosion-Resistant Carbon Steel Flat Products from Canada, NAFTA Secretariat File Number USA–CDA–98–1904–01. The majority remanded the determination to the Investigating Authority with the following instructions: (1) DOC is required to recalculate Stelco's costs of production, taking account of the year-end return of profits by Baycoat to Stelco. The Panel requires DOC to provide the Panel with the method by which DOC recalculates that cost of production in light of such return of profits. The Panel further requires that DOC explain their methodology in light of the statutory requirements and attendant legislation as interpreted by the Panel; (2) DOC is required to reevaluate the application of 19 U.S.C. 1677 (b)(f)(3) in light of the requirement that DOC adjust the transfer price in accordance with the recalculation set out under (1) immediately above; (3) In its Response Brief, DOC requests a remand to correct any errors on the imputed credit expense and payment date issues, in light of Stelco's complaint. The Panel grants DOC's request and so remands; and (4) DOC is required to provide the Panel with its response to the aforementioned remand instructions within sixty (60) days from the date of this remand. One Panelist concurred in part and dissented in part to the majority opinion. The dissenting Panelist rejects Stelco's challenge to DOC's construction of the applicable statutes and to its findings of facts. In all other respects, he concurred in the remand. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

Panel Decision

The panel remanded the final determination of the International Trade Administration with instructions listed above. The determination on remand is due on May 21, 2001.

Dated: March 22, 2001.

Caratina L. Alston,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 01–7577 Filed 3–27–01; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Policy Statement Regarding Issuance of *Ex-Parte* Memoranda

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

EFFECTIVE DATE: February 13, 2000.

SUMMARY: The Department of Commerce (''the Department'') has revised its policy regarding issuance of *ex-parte* memoranda. We are now announcing this change in policy.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–1275.

SUPPLEMENTARY INFORMATION: In *Nippon Steel Corp.* v. *United States*, 118 F. Supp. 2d 1366, 1374 (CIT 2000), the Court of International Trade held that the Department's implementation, in the underlying antidumping duty investigation, of the *ex-parte* memoranda provision of its statute constituted a violation of that statute. The Department acknowledges that the *ex-parte* memoranda in that proceeding contained inadequate information and were not timely placed on the record. In order to assure better compliance with this provision, the following policy statement was issued to all Import Administration staff. In addition, the Office of the Under Secretary for International Trade and the Office of the Secretary were notified.

Policy Statement on *ex-parte* Memoranda

All Import Administration staff are instructed that *ex-parte* memoranda required by section 777(a)(3) of the Act will be drafted expeditiously in all cases, reviewed by a person in attendance at the meeting, and placed in the record as soon as possible, so that parties may comment effectively on the factual matters presented. The memoranda are required whether or not the factual information received was received previously, is expected to be received later in the proceeding, or is expected to be used or relied on. This statutory provision is included below.

Ex-Parte Meetings

The administering authority and the Commission shall maintain a record of any *ex-parte* meetings between—

(A) interested parties or other persons providing factual information in connection with a proceeding, and

(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if information relating to that proceeding was presented or discussed at such meeting.

The record of such an *ex-parte* meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the *ex-parte* meeting shall be included in the record of the proceeding.

This policy statement will also be made available on the Department's website at *http://ia.ita.doc.gov/policy/.* Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: March 12, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–7653 Filed 3–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 001215357–0357–01]

RIN 0693–ZA43

Announcement of Availability of Funds for a Competition—Advanced Technology Program (ATP); Correction

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice; correction.

SUMMARY: The National Institute of Standards and Technology (NIST) published a document in the **Federal Register** on January 2, 2001, announcing the availability of fiscal year 2001 Funds for a single Advanced Technology Program (ATP) competition. This document contains a correction to the Funding Availability caption to inform the public about four proposals that were selected for funding during fiscal year 2000 ATP competition but were brought forward to be funded with fiscal year 2001 ATP appropriations.

FOR FURTHER INFORMATION CONTACT: Barbara Lambis, (301) 975–4447. General information on the ATP may be obtained from the following address: National Institute of Standards and Technology; Advanced Technology Program; 100 Bureau Drive, Stop 4701; Administration Building 101, Room A413; Gaithersburg, MD 20899–4701. Additionally, ATP information is available on the Internet at http://www.atp.nist.gov.

Correction

In the **Federal Register** issue of January 2, 2001, in FR Doc. 00–33429, on page 96, in the third column, first full paragraph, correct the first sentence to read: An estimated $56.5 million in first year funding is available for new awards.

Dated: March 22, 2001.

Karen H. Brown,

Deputy Director.

[FR Doc. 01–7630 Filed 3–27–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos

AGENCY: Department of Energy.

ACTION: Notice of open meeting correction.

On March 15, 2001, the Department of Energy published a notice of open meeting announcing a meeting of the Environmental Management Site-Specific Advisory Board, Los Alamos (66 FR 15108). In that notice, the meeting location was the Holiday Inn, 1005 Paseo de Pueblo Sur, Taos, New Mexico. Today's notice is announcing that the meeting location will be the Sagebrush Inn, 1508 Paseo de Pueblo Sur, Taos, New Mexico.

Issued in Washington, DC on March 26, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–7743 Filed 3–27–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 22, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11888–000.

c. *Date filed:* February 20, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of project:* Woodruff Narrows Project.

f. *Location:* On the Bear River, in Uinta County, Wyoming. Would utilize no federal land or facilities.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Brent L. Smith, President, Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11888–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments of documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on the resource agency.

k. *Description of project:* The proposed project would consist of: (1) An existing 377-foot-long, 50-foot-high earth fill dam; (2) a proposed reservoir having a surface area of 1,648 acres with a storage capacity of 57,300 acre-feet and a normal water surface elevation of 6500 feet msl; (3) a proposed 200-foot-long, 4-foot-diameter steel penstock; (4) a proposed powerhouse containing one generating unit having an installed capacity of 723kW; (5) a proposed 3.7-mile-long, 15 kV transmission line; and (6) appurtenant facilities.

The project would have an annual generation of 6.3 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary permit:* Any qualified development applicant desiring to file a competing development application must submit to the commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person

to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed scope of studies under permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, protests, or motions to intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and service of responsive documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–7586 Filed 3–27–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 22, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of application:* Preliminary Permit.

b. *Project no.:* 11892–000.

c. *Date filed:* February 20, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of project:* Smith Fork Project.

f. *Location:* On the Bear River, in Lincoln County, Wyoming. Would utilize land administered by the Bureau of Land Management.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11892–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of project:* The proposed project would consist of: (1) A proposed 2,200-foot-long, 106-foot-high earth fill dam; (2) a proposed reservoir having a surface area of 2,400 acres with a storage capacity of 125,000 acre-feet and a normal water surface elevation of 6,870 feet msl; (3) a proposed 1,450-foot-long, 7.5-foot-diameter steel penstock; (4) a proposed powerhouse containing two generating units having a total installed capacity of 2.5 MW; (5) a proposed 12-mile-long, 25kV transmission line; and (6) appurtenant facilities.

The Project would have an annual generation of 13.9 GWh that would be sold to a local utility.

1. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address item h above.

m. *Preliminary permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary permit:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or

before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent:* a notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed scope of studies under permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, protests, or motions to intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and service of responsive documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–7587 Filed 3–27–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 22, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of application:* Preliminary Permit.

b. *Project no.:* 11900–000.

c. *Date filed:* March 2, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of project:* Thief Valley Dam Project.

f. *Location:* On the Powder River, in Union County, Oregon. Would utilize the existing Bureau of Reclamation's Thief Valley Dam.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC contact:* Robert Bell, (202) 219–2806.

j. Deadline for filing motions to intervene, protests and comments: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11888–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Thief Valley dam and impoundment would consist of: (1) A proposed intake structure (2) a proposed 150-foot-long, 6-foot-diameter steel penstock; (4) a proposed powerhouse containing one generating unit having an installed capacity of 900 kW; (5) a proposed 6-mile-long, 15 kV transmission line; and (6) appurtenant facilities.

The project would have an annual generation of 7.5 GWh that would be sold to a local utility.

1. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary permit:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed scope of studies under permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, protests, or motions to intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and service of responsive documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–7588 Filed 3–27–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6959–9]

Continuous Release Reporting Regulations (CRRR) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA); Request for Comment on Renewal Information Collection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Continuous Release Reporting Regulations (CRRR) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (EPA ICR No. 1445.05, OMB No. 2050–0086). This is a request to renew an existing ICR that is currently approved. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the collection.

DATES: Comments must be submitted on or before May 29, 2001.

ADDRESSES: Comments submitted by regular U.S. Postal Service mail should be sent to: Docket Coordinator, Superfund Docket Office, Mail Code 5201G, U.S. Environmental Protection Agency Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. To ensure proper receipt by EPA, it is imperative that you identify docket control number 102RQ–CR2 in the subject line on the first page of your comment. Comments may also be submitted electronically or in person. Please follow the detailed instructions for these submission methods as provided in unit III of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Lynn Beasley, (703) 603–9086. Facsimile number: (703) 603–9104. Electronic address: beasley.lynn@epa.gov. Comments should not be submitted to this contact person.

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

You may be affected by this notice if you are the person in charge of a facility that releases hazardous substances into the environment as specified in section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. According to section 103(a) of CERCLA, if the facility you are in charge of releases an amount of hazardous substance that equals or exceeds its reportable quantity (RQ) and the release is not Federally permitted, you are required to notify the National Response Center (NRC) of the release immediately. However, according to section 103(f)(2) of CERCLA, if the release at the facility you are in charge of is ''continuous,'' and ''stable in quantity and rate,'' you may be exempted from the per-occurrence notification requirements of section 103(a) of CERCLA. To determine if the facility you are in charge of is affected by this action, you should carefully examine the applicability provisions in the Continuing Release Reporting Regulations (CRRR) (40 CFR 302.8).

II. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

A. By Phone, Fax, or Internet

If you have any questions or need additional information about this notice or the information collection request (ICR) referenced, please contact Lynn Beasley, (703) 603–9086. Facsimile

number: (703) 603–9104. Electronic address: beasley.lynn@epa.gov.

B. In Person

The official record for this notice, including the public version, and the referenced ICR have been established under docket control number 102RQ–CR2 (including comments and data submitted electronically, as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), and the referenced ICR are available for inspection in the U.S. Environmental Protection Agency Superfund Docket Office, Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Superfund Docket is open from 9 AM to 4 PM, Monday through Friday, excluding legal holidays. The telephone number of the Superfund Docket is (703) 603–9232.

C. By Internet

The referenced draft ICR and draft Paperwork Reduction Act Submission Form (OMB83–I) are available on the Internet at the following addresses: *http://www.epa.gov/superfund/resources/rq/icr01d1.pdf*, and *http://www.epa/gov/superfund/resources/rq/omb83cd1.pdf* or see the ''Renewal Information Collection Requests (ICRs)'' page for Reportable Quantities at: *http://www.epa.gov/superfund/resources/rq/icr.htm.*

III. How Can I Respond to This Notice?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the docket control number 102RQ–CR2 on any correspondence.

1. *By mail.* Submit written comments to: Docket Coordinator, Superfund Docket Office, Mail Code 5201G, U.S. Environmental Protection Agency Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: U.S. Environmental Protection Agency Superfund Docket Office, Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. Telephone: (703) 603–9232.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: superfund.docket@epa.gov. Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on standard computer disks in WordPerfect 6/7/8 or ASCII file format. All comments and data in electronic form must be identified by the docket control number 102RQ–CR2. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want to Submit to EPA?

You may claim information that you submit in response to this notice as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must also be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with Lynn Beasley, (703) 603–9086. Facsimile number: (703) 603–9104. Electronic address: beasley.lynn@epa.gov.

C. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(a) of the Paperwork Reduction Act (PRA), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of EPA, including whether the information will have practical utility.

2. Evaluate the accuracy of EPA's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

D. What Should I Consider When I Prepare My Comments for EPA?

EPA invites you to provide your views on the various options EPA proposes, new approaches EPA hasn't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like EPA to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the rule or collection activity.
- Make sure to submit your comments by the deadline in this notice.
- At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document on which you are commenting. You can do this by providing the docket control number assigned to this notice, along with the name, date, and **Federal Register** citation, or by using the appropriate EPA ICR or the Office of Management and Budget (OMB) control number.

IV. To What Information Collection Activity or ICR Does This Notice Apply?

EPA is seeking comments on the following ICR:

Title: Continuous Release Reporting Regulations (CRRR) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

ICR numbers: EPA ICR No. 1445.05, OMB No. 2050–0086.

ICR status: The expiration date for this ICR was extended and is currently scheduled to expire on March 31, 2001. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: Section 103(a) of CERCLA, as amended, requires the person in charge of a facility to immediately notify the NRC of a hazardous substance release into the environment if the amount of the release equals or exceeds the substance's RQ. The RQ of every hazardous substance can be found in

Table 302.4 of 40 CFR 302.4. Section 103(f)(2) of CERCLA provides facilities relief from this per-occurrence notification requirement if the hazardous substance release at or above the RQ is continuous and stable in quantity and rate. Under the CRRR, to report such a release as a continuous release you must make an initial telephone call to the NRC, an initial written report to the EPA Region, and, if the source and chemical composition of the continuous release does not change and the level of the continuous release does not significantly increase, a follow-up written report to the EPA Region one year after submission of the initial written report. If the source or chemical composition of the previously reported continuous release changes, notifying the NRC and EPA Region of a change in the source or composition of the release is required. Further, a significant increase in the level of the previously reported continuous release must be reported immediately to the NRC according to section 103(a) of CERCLA. Finally, any change in information submitted in support of a continuous release notification must be reported to the EPA Region.

The reporting of a hazardous substance release that is equal to or above the substance's RQ allows the Federal government to determine whether a Federal response action is required to control or mitigate any potential adverse effects to public health or welfare or the environment.

The continuous release of hazardous substance information collected under CERCLA section 103(f)(2) is also available to EPA program offices and other Federal agencies who use the information to evaluate the potential need for additional regulations, new permitting requirements for specific substances or sources, or improved emergency response planning. State and local government authorities and facilities subject to the CRRR use release information for purposes of local emergency response planning. Members of the public, who have access to release information through the Freedom of Information Act, may request release information for purposes of maintaining an awareness of what types of releases are occurring in different localities and what actions, if any, are being taken to protect public health and welfare and the environment.

V. What are EPA's Burden and Cost Estimates for This ICR?

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

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to average 92 hours per affected facility. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Entities potentially affected by this action are facilities that manufacture, process, or otherwise use certain specified hazardous substances.

Estimated total number of facilities that will have to report continuous hazardous substance releases per year: 2,712.

Frequency of response: After reporting the continuous release to the NRC and EPA Region initially, only an annual report to the EPA Region is necessary unless there is a change in the source of the continuous release, a change in the chemical composition of the continuous release, or a significant increase in the level of the continuous release. In these cases the person in charge of the facility has to notify the NRC and the appropriate EPA Regional Office of the change in the continuous release.

Estimated total annual burden hours (averaged over 3 years): 249,451 hours.

Estimated total annual burden costs (averaged over 3 years): $11,277,827.

VI. Are There Changes in the Estimates from the Last Approval?

In the renewal ICR, EPA will review the current burden and cost statement and adjust it accordingly. EPA does expect the burden and cost statement in the renewal ICR to be greater than the burden and cost statement in the current ICR. This increase may be due to an historical growth rate of about 7.5 percent per year in the number of reporting facilities; however, EPA continues to consider data that may reflect a greater growth rate than the 7.5 percent assumption in the background document. Specifically, EPA is considering data from the National Response Center's data base that shows a significant increase in reporting in fiscal year 2000 (10/01/99–09/30/00). A summary table is available from the docket for this Information Collection Request or on the internet at the following address: *http://www.epa.gov/superfund/resources/rq/nrc01data.pdf.*

VII. What is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact Lynn Beasley, (703) 603–9086. Facsimile number: (703) 603–9104. Electronic address: beasley.lynn@epa.gov.

Dated: March 20, 2001.

Elaine F. Davies,

Acting Director, Office of Emergency and Remedial Response.

[FR Doc. 01–7637 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6959–8]

Environmental Laboratory Advisory Board (ELAB), Nominees, Meeting Date, and Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; solicitation of nominees for membership and notice of open meeting.

SUMMARY: The EPA is soliciting nominees to serve on the ELAB. Nominees are being sought to fill vacancies in the following categories: environmental engineering associations or firms, Indian nations, third party assessors, commercial laboratories, purchasers of environmental laboratory services, public interest groups and others associated with the environmental monitoring community. Terms of service will commence on July 29, 2001 and terminate on July 29, 2003. Application forms must be submitted to provide information on experience, abilities, stakeholder interest, organizational description, and references. A copy of the application form can be obtained on the Internet (see address below).

The Agency will convene an open teleconference meeting of ELAB on April 24, 2001, from 2:00 p.m. to 4:00 p.m. EST to solicit input from the public on issues related to the NELAC standards and the NELAC environmental laboratory accreditation program. The call in number for the meeting is 202–260–1015, access code 9195#. For those wishing to participate in person, the meeting will be open to the public at the EPA Office of Research and Development Laboratory in Las Vegas, NV. Directions can be obtained by calling 202–798–2232.

The agenda will include discussions of issues related to laboratory accreditation raised to the Board by the Public as well as a review of outstanding recommendations and activities from earlier Board meetings. Comments on the NELAC standards and laboratory accreditation program will be solicited. The Internet site address for the NELAC standards and the above mentioned ELAB nominee application is: http://ttnwww.rtpnc.epa.gov/html/nelac/nelac.htm#NL02.)

The public is encouraged to attend. Time will be allotted for public comment. Written comments are encouraged and should be directed to Stephen Billets; USEPA; PO Box 93478, Las Vegas, NV 89193. For additional information, please contact Dr. Billets at (702) 798–2232, fax (702) 798–2261, or E-mail: billets.stephen@epa.gov.

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 01–7636 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6959–1]

Notice of Request for Proposals for Projects To Be Funded From the Water Quality Cooperative Agreement Allocation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA Region 6 is soliciting proposals from State agencies and Tribes interested in applying for Federal assistance for Water Quality Cooperative Agreements under the Clean Water Act section 104(b)(3) in the states of Arkansas, Louisiana, New Mexico, Oklahoma and Texas. Region 6 EPA will award an estimated $1 million to eligible applicants through assistance agreements ranging in size up to $200,000 for innovative projects/demonstrations/studies that can be used as models relating to the prevention, reduction, and elimination of water pollution.

DATES: EPA will consider all proposals received on or before 5 pm Central Time April 27, 2001. Proposals received after the due date will not be considered for funding.

ADDRESSES: Proposals should be mailed to: Terry Mendiola (6WQ–AT), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Overnight Delivery may be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Terry Mendiola by telephone at 214–665–7144 or by E-mail at mendiola.teresita@epa.gov.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of This Request for Proposals?

EPA Region 6's Water Quality Protection Division is requesting proposals from State agencies and Tribes for unique and innovative projects that address the requirements of the National Pollutant Discharge Elimination Systems (NPDES) program with special emphasis on wet weather activities, i.e., storm water, sanitary sewer overflows, and concentrated animal feeding operations as well as projects that enhance the ability of the regulated community to deal with non-traditional pollution problems in priority watersheds. Innovative studies leading to the development of Total Maximum Daily Loads (TMDL) is another priority on which these funds could be focused.

Tribal governments should submit proposals which strengthen implementation of tribal environmental protection.

An organization whose proposal is selected for Federal assistance must complete an EPA Application for Assistance, including the Federal SF–424 form (Application for Federal Assistance, see 40 CFR 31.10).

Has EPA Region 6 Identified High Priority Areas for Consideration?

EPA Region 6 has identified several project areas for priority consideration to the extent they are for research, investigations, experiments, training, demonstrations, surveys and studies related to the causes, effects, extent, prevention, reduction, and elimination of water pollution:

Concentrated Animal Feeding Operations

Alternative markets for excess manure
Voluntary Comprehensive Nutrient Management Plans for Animal Feeding
Operations with 300 to 500 animal units

Wet Weather (Sanitary Sewer Overflows (SSOs), Storm Water)

Integration of SSO and storm water requirements
Measuring the effectiveness of storm water Best Management Practices (BMPs)
Trends analysis of load reductions due to implementation of storm water BMPs
Storm water monitoring techniques
Estimating quantified benefits of enhanced sewer performance (e.g., reduced backups)
Quantifying the impacts of sewage overflows
Evaluation of impacts of peak wet weather flows on Publicly Owned Treatment Works (POTW)
Capacity, Management, Operations and Maintenance (CMOM) of POTWs
Inflow/Infiltration reduction
Sewer rehabilitation methods

National Pollutant Discharge Elimination System (NPDES) Programs

Stakeholder watershed approaches
Nutrient trading
Watershed integration of NPDES programs
Innovative Permit Writing Tools
Strategy to effectively manage Permit Backlog

Pretreatment

Performance measures
Facilitation of innovative technology transfer
Pretreatment on the Mexican Border

Environmental Management System (EMS)

Benefits and impacts of EMS
EMS adoption by public agencies

Cooling Water Intake Structures (Clean Water Act, Section 316(b))

Innovative technologies that reduce impingement and entrainment of aquatic organisms into cooling water intakes
Ecological effects of cooling water intake structures on aquatic environments
Effectiveness of ecological restoration activities in reducing the impact of cooling water intake structures on the aquatic environment

Infrastructure Funding Related To

Asset Management
Operations and Maintenance (O&M) issues for small communities
Capacity Building for Tribes/Native Villages/Environmental Justice

Biosolids

Demonstrations of regional biosolids approaches
Food crop applications on biosolids and/or reclaimed water (assessments, research, demonstrations analyses)

Onsite/Decentralized Systems

State-level adoption of EPA management guidelines
Overcoming institutional, regulatory and funding barriers to implementation of decentralized options
Development of tools to assist communities with conducting comprehensive, watershed-wide assessments of risks associated with decentralized wastewater systems

TMDL

Innovative studies leading to TMDL development

Statutory Authority, Applicable Regulations, and Funding Level

Funding is authorized under the provisions of the Clean Water Act section 104(b)(3), 33 U.S.C. 1254(b)(3).

The regulation governing the award and administration of Water Quality Cooperative Agreements is 40 CFR part 31 (for States, Tribes, local governments, intertribal consortia, and interstate agencies).

Total funding available for award by Region 6 will depend on EPA's appropriation for Fiscal Year 2001; however, it is estimated that $1 million will be available for funding approved projects. A five percent match will be required for all approved projects and should be included in the total funding requested for each proposal submitted.

Proposal Format and Contents

Proposals should be limited to three pages. Full application packages should not be submitted at this time. The following format should be used for all proposals:

Name of Project:

Point of Contact: (Individual and State Agency/Tribe Name, Address, Phone Number, Fax Number, E-mail Address)

Is This a Continuation of a Previously Funded Project (if so, please provide the status of the current grant or cooperative agreement):

Proposed Award Amount:

Proposed Match:

Description of General Budget Proposed To Support Project:

Project Description: (Should not exceed two pages of single-spaced text)

Expected Accomplishments or Product, With Dates, and Interim Milestones: This section should also include a discussion of a communication plan for distributing the project results to interested parties.

Describe How the Project Meets the Evaluation Criteria Specified Below:

EPA Proposal Evaluation Criteria

EPA will consider proposals based on the following criteria:

- The relationship of the proposed project to the priorities identified in this notice.
- How well the project furthers the goal of the Clean Water Act to prevent, reduce, and eliminate water pollution.
- Innovation of project proposal.
- Cost effectiveness of the proposal.
- Agency's/Tribes' past performance.
- Compliance with directions for submittal contained in this notice.

Eligible Applicants

For the purpose of this notice, eligible applicants for assistance agreements under section 104(b)(3) of the Clean Water Act are State agencies and Tribal governments. This solicitation is limited to applicants within EPA Region 6.

Application Procedure

Please send three copies of the proposal.

Schedule of Activities

This is the estimated schedule of activities for review of proposals and notification of selections:

April 27, 2001—Proposals due to EPA.
May 29, 2001—Initial approvals identified and sponsors of projects selected for funding will be requested to submit a formal application package.

Sam Becker,

Acting Director, Water Quality Protection Division.

[FR Doc. 01–7634 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66283; FRL–6772–9]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by, September 24, 2001, unless indicated otherwise, orders will be issued canceling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 224, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail address: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information or Copies of Support Documents?

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

2. *In person*. Contact James A. Hollins at 1921 Jefferson Davis Highway, Crystal Mall No. 2, Rm. 224, Arlington, VA, telephone number (703) 305–5761. Available from 7:30 a.m. to 4:45 p.m., Monday thru Friday, excluding legal holidays.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel some 42 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1:

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000264–00544	Bronate Gel Herbicide	2-Ethylhexyl 2-methyl-4-chlorophenoxyacetate
		3,5-Dibromo-4-hydroxybenzonitrile octanoate
		3,5-Dibromo-4-hydroxybenzonitrile heptanoate
000264–00571	Diva Fungicide	Tetrachloroisophthalonitrile
		3-(3,5-Dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide
000270–00289	Security Brand Captan Garden Spray	cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
000279 LA–00–0007	Pounce 3.2 EC Insecticide	Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl-
000279 TX–97–0003	Furadan 3G Insecticide-Nematicide	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
000352 AZ–93–0015	Dupont Benlate Fungicide	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 WA–77–0040	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 WA–87–0003	Du Pont Telar Herbicide	2-Chloro-*N*-(((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)carbonyl)
000400 OR–99–0033	Dimilin 2L	1-(4-Chlorophenyl)-3-(2,6-difluorobenzoyl)urea
000432–00899	Chipco Nivral Brand Thiodicarb Molluscicide	Dimethyl *N,N'*-(thiobis((methylimino)carbonyloxy))bis(ethanimidothioate)
000499–00250	Whitmire PT 1300 Total Release Insecticide	*O,S*-Dimethyl acetylphosphoramidothioate
000572–00062	Rockland Fruit Tree Spray	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
		O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
		Sulfur
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
000829–00236	SA-50 Fruit Spray Concentrate	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
		O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
		Sulfur
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
001381–00160	Agrosol	2-(4'-Thiazolyl)benzimidazole
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
001381–00161	Agrosol Flowable Systemic Commercial Seed Treatment Fun	2-(4'-Thiazolyl)benzimidazole
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
001381–00167	Gammasan Insecticide - Fungicide Hopper Box Seed Treatment	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
001381–00172	Granox P-F-M	Manganese ethylenebis(dithiocarbamate)
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
001381–00173	Granox CHM Soybean Seed Treatment Fungicide	cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
001452–00003	Hilo Dip	Rotenone
		Cube Resins other than rotenone
001459–00070	Water Base Residual Insect Spray II contains Pyrenone A	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
002935–00499	Solve LV Ester 6	Acetic acid, (2,4-dichlorophenoxy)-, 2-ethylhexyl ester
003125 MO–79–0012	Sencor 4 Flowable Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
005383–00073	Troysan Polyphase P-15H	3-Iodo-2-propynyl butylcarbamate
005383–00078	Woodsman Solid Color Oil Stain	Bis(tributyltin) oxide
		3-Iodo-2-propynyl butylcarbamate
005383–00083	Troysan Polyphase GWP-1 Wood Preservative Clear	3-Iodo-2-propynyl butylcarbamate
005383–00087	Real-Wood Wood Preservative	3-Iodo-2-propynyl butylcarbamate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
005481 WA–91–0038	K-Salt Fruit Fix 800	Potassium 1-naphthaleneacetate
005481 WA–91–0039	K-Salt Fruit Fix 200	Potassium 1-naphthaleneacetate
007001 WA–94–0022	Sim-Tec 0.50	2-(4'-Thiazolyl)benzimidazole
007173–00185	Rozol Laq-Berry Rat and Mouse Bait	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
009779–00351	Iprodione 4F	3-(3,5-Dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide
010163 AZ–99–0004	Imidan 70-WSB	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010182–00226	Eptam 87.8% Manufacturing Concentrate	*S*-Ethyl dipropylthiocarbamate
010182 OR–78–0054	Ro-Neet 6E A Selective Herbicide Emulsifiable Liquid	*S*-Ethyl cyclohexylethylthiocarbamate
019713 OR–97–0005	Drexel Dimethoate 2.67	*O,O*-Dimethyl *S*-((methylcarbamoyl)methyl) phosphorodithioate
028293–00153	Unicorn Rotenone Dip	Pyrethrins
		Rotenone
		Cube Resins other than rotenone
034704 WA–97–0007	D-Z-N Diazinon 50W Insecticide	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
047371–00183	Formulation RTU-6075 (MA)	Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12})
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C_{12}, 30%C_{14}, 17%C_{16}, 3%C_{18})
050534 TX–92–0022	Bravo 720	Tetrachloroisophthalonitrile
059639 AZ–00–0008	Orthene 90 S	*O,S*-Dimethyl acetylphosphoramidothioate
059639 AZ–93–0005	Monitor 4 Spray	*O,S*-Dimethyl phosphoramidothioate
071368 OR–87–0008	Weedar 64 Broad Leaf Herbicide	Dimethylamine 2,4-dichlorophenoxyacetate

Unless a request is withdrawn by the registrant within 180 days (30 days when requested by registrant) of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant during this comment period.

The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number:

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000264	Aventis Cropscience USA LP, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709.
000270	Farnam Companies Inc., 301 W. Osborn Rd., Phoenix, AZ 85013.
000279	FMC Corp., Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.
000352	E. I. Du Pont De Nemours, Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000400	Uniroyal Chemical Co, Inc., A Subsidiary of Crompton Corp., 74 Amity Rd, Bethany, CT 06524.
000432	Aventis Environmental Science USA LP, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
000499	Whitmire Micro-Gen Research Laboratories Inc., 3568 Tree Ct., Industrial Blvd, St Louis, MO 63122.
000572	Rockland Corp., 686 Passaic Ave., Box 809, West Caldwell, NJ 07007.
000829	Southern Agricultural Insecticides, Inc., Box 218, Palmetto, FL 34220.
001381	Agriliance, LLC, Box 64089, St. Paul, MN 55164.
001452	Roccorp Inc., Box 785, Brunswick, OH 44212.
001459	Bullen Companies, Box 37, Folcroft, PA 19032.
002935	Wilbur Ellis Co., 191 W Shaw Ave, #107, Fresno, CA 93704.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
005383	Lewis & Harrison, Agent For: Troy Chemical Corp., 122 C St NW, Suite 740, Washington, DC 20001.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
005481	AMVAC Chemical Corp., Attn: Jon C. Wood, 4695 Macarthur Ct., Suite 1250, Newport Beach, CA 92660.
007001	J.R. Simplot Co., Box 198, Lathrop, CA 95330.
007173	Liphatech, Inc., 3600 W. Elm Street, Milwaukee, WI 53209.
009779	Agriliance, LLC, Box 64089, St Paul, MN 55164.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010182	Zeneca Ag Products, Inc., 1800 Concord Pike, Wilmington, DE 19850.
019713	Drexel Chemical Co., 1700 Channel Ave., Box 13327, Memphis, TN 38113.
028293	Unicorn Laboratories, 12385 Automobile Blvd., Clearwater, FL 33762.
034704	Jane Cogswell, Agent For: Platte Chemical Co, Inc., Box 667, Greeley, CO 80632.
047371	H & S Chemicals Division, c/o Lonza Inc., 17–17 Route 208, Fair Lawn, NJ 07410.
050534	GB Biosciences Corp., c/o Zeneca Ag Products, 1800 Concord Pike, Box 15458, Wilmington, DE 19850.
059639	Valent U.S.A. Corp., 1333 N. California Blvd, Suite 600, Walnut Creek, CA 94596.
071368	Nufarm Limited, c/o Nufarm Americas, Inc., 317 W. Florence Rd., St. Joseph, MO 64506.

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before September 24, 2001, unless indicated otherwise. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1–year after the date the cancellation request was received by the Agency. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** of June 26, 1991 (56 FR 29362) (FRL 3846–4). Exception to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: March 8, 2001.

Richard D. Schmitt,

Associate Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 01–7286 Filed 3–27–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1012; FRL–6775–4]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1012, must be received on or before April 27, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1012 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dan Rosenblatt, Herbicide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., Washington, DC 20460; telephone number: (703) 305–5697; e-mail address: rosenblatt.dan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–1012. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1012 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1012. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

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. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency

of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 14, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

FMC Corporation, Agricultural Products Group

PP 9F06056

EPA has received a pesticide petition (9F06056) from FMC Corporation, Agricultural Products Group, 1735 Market Street, Philadelphia, PA, 19103 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR 180.425 by establishing a tolerance for residues of clomazone, 2-(2-chloroprene)methyl-4,4- diethel-3-isoxazolidinone in or on the raw agricultural commodity sugarcane, cane at 0.05 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of clomazone in plants is adequately understood. The metabolism of clomazone has been studied in both monocotyledonous and dicotyledonous plant species, such as corn and soybeans. The residue of significance is the parent compound, clomazone. This picture is consistent with plant metabolism studies in other species (cotton, sweet potatoes and tobacco), all of which have shown a similar metabolic pathway with the residue of significance being clomazone.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of clomazone in or on sugarcane (cane) and its processed parts (molasses, refined sugar) with a limit of detection that allows monitoring of food for residues at or above the levels proposed in this tolerance. Sugarcane and processed parts samples are analyzed using an analytical method consisting of an acid reflux, a C_{18} solid phase extraction (SPE), a Florisil SPE clean-up followed by gas chromatography (GC)-mass selective detection (MSD). The method limit of quantitation (LOQ) is 0.05 ppm. The method limit of detection (LOD) is 0.01 ppm.

3. *Magnitude of residues*. FMC conducted a residue study (consisting of 10 trials) to determine the magnitude of the residue of clomazone in/on sugarcane (cane) after Command 3ME was applied once as a postemergence broadcast spray to either plant cane or ratoon cane, but preemergence to weeds, at 1.25 lb. ai/A. The residues found in the treated cane samples ranged from non-detectable (ND) to just above LOD at 0.02 ppm. A second study, applied in the same fashion as described above, was conducted using an exaggerated rate of 2.5 lb. ai/A (2X the intended use rate). Sugarcane (cane) was processed into two fractions, molasses and refined sugar, using simulated commercial practices. Analysis of the processed parts (molasses, refined sugar) yielded no clomazone residues (ND, <0.01 ppm) and no concentration factor. Since no detectable residues were found in molasses, the only identified sugarcane byproduct feedstuff (for beef and dairy cattle), animal feeding studies in cows are not needed.

B. Toxicological Profile

1. *Acute toxicity*. The following mammalian toxicity studies have been conducted with clomazone technical (unless noted otherwise) to support registrations and/or tolerances of clomazone:

i. A rat acute oral study with an LD_{50} of 2,077 mg/kg (male) and 1,369 mg/kg (female).

ii. A rabbit acute dermal LD_{50} of > 2,000 mg/kg.

iii. A rat acute inhalation LC_{50} of 6.25 mg/L/4 hr (male), 4.23 mg/L/hr (female) and 4.85 mg/L/4 hr (combined sexes).

iv. A primary eye irritation study in the rabbit which showed practically no irritation.

v. A primary dermal irritation study in the rabbit which showed minimal irritation.

vi. A primary dermal sensitization study in the guinea pig which showed no sensitization.

vii. Acute delayed neurotoxicity - clomazone, and its known metabolites, 3 are not structurally related to known neurotoxic substances.

2. *Genotoxicity*. The following genotoxicity tests were all negative: Ames Assay; CHO/HGPRT Mutation Assay; and Structural Chromosomal Aberration. The Unscheduled DNA Synthesis genotoxicity was negative with activation; weakly positive without activation.

3. *Reproductive and developmental toxicity*. A two-generation reproduction study was conducted in the rat with a parental systemic NOAEL of 1,000 ppm (50 mg/kg/day) based on decreased body weight and food consumption at 2,000 ppm; and a progeny systemic NOAEL of 1,000 ppm (50 mg/kg/day) based on decreased pup body weight at 2,000 ppm. The reproductive performance NOAEL was >4,000 ppm which was the highest dose tested. There was an unexplained decrease in the fertility index during mating of the F1b generation at 4,000 ppm which was not observed in the F1a litter or repeated in the F2 generation. Additionally, there was one F2a pup at 1,000 ppm which had non-functional hindlimbs and one F2b pup at 4,000 ppm which had extended hindlimbs with no flexion at the ankle. These limb abnormalities were not considered treatment-related for the following reasons: (i) There was no dose response observed, (ii) the findings were not statistically significant, (iii) the findings were not repeated at the 1,000 ppm dose level in the F2b litter or found in the F1a or F1b litters; and (iv) these findings or related hindlimb abnormalities were not observed in developmental studies at gavage dose levels up to 100 mg/kg/day in the rat or 240 mg/kg/day in the rabbit.

A developmental toxicity study in rats given gavage doses of 100, 300 and 600 mg/kg/day and with maternal and fetal NOAELs of 100 mg/kg/day. The maternal NOAEL is based on decreased locomotion, genital staining and runny eyes and the developmental NOAEL is based on increased incidence of delayed ossification at 300 mg/kg/day. This study was negative for teratogenicity at all doses tested.

A developmental toxictiy study in rabbits given gavage doses of 30, 240 and 700 mg/kg/day with maternal and

fetal NOAELs of 240 mg/kg/day. The maternal NOAEL is based on a decrease in body weight and the developmental NOAEL is based on an increase in the number of fetal resorptions at 700 mg/kg/day. This study was negative for teratogenicity at all doses tested.

In all cases, the reproductive and developmental NOAELs were equal to the parental NOAELs, thus indicating that clomazone does not pose any increased risk to infants or children.

4. *Subchronic toxicity*. In a 90–day feeding subchronic study in mice the NOAEL was 20 ppm (<2.9 mg/kg/day) based on liver cytomegaly at 20 ppm.

5. *Chronic toxicity*. A 12–month feeding study in the dog with a NOAEL of 500 ppm (14.0 mg/kg/day for males; 14.9 mg/kg/day for females) based on increased blood cholesterol and liver weights at 2,500 ppm.

A 24–month chronic feeding/oncogenicity study in the rat with a NOAEL of 100 ppm (4.3 mg/kg/day for males; 5.5 mg/kg/day for females) based on increased liver weights and increased liver cytomegaly at 500 ppm. There were no oncogenic effects observed under the conditions of the study. A 24–month chronic feeding/oncogenicity study in the mouse with a NOAEL of 100 ppm (15 mg/kg/day) based on an increase in the white blood cell count. There were no oncogenic effects observed under the conditions of the study.

Using the Guidelines for Carcinogen Risk Assessment, it is proposed that clomazone be classified as Group E for carcinogenicity (no evidence of carcinogenicity) based on the results of carcinogenicity studies in two species. In 24–Month Feeding/ Oncogenicity studies in rats and mice at dosages up to 2,000 ppm, there was no evidence of caricnogenicity. The NOAEL in the 24–Month Feeding/oncogenicity study in the rat was 100 ppm (4.3 mg/kg/day for males and 5.5 mg/kg/day for females). The NOAEL in the 24–Month Feeding/Oncogenicity study in mice was 100 ppm (15 mg/kg/day). The studies were negative for carcinogenic effects at all dosage levels tested.

The Reference Dose (RfD) for clomazone has been established at 0.043 mg/kg/day. The RfD for clomazone is based on the 24–Month Feeding/Carcinogenicity Study in the Rat with a NOAEL of 4.3 mg/kg/day and an uncertainty factor of 100.

6. *Animal metabolism*. The metabolism of clomazone in animals is adequately understood. Clomazone degrades rapidly and extensively in rats, goats and poultry to a variety of metabolites which were readily excreted from the body via excreta.

7. *Metabolite toxicology*. No clomazone related metabolite residues have been identified as being of toxicological concern. The residue of significance is parent. Clomazone, has been thoroughly investigated in a full battery of studies including acute, genetic, reproduction, developmental and oncogenic tests. These studies have demonstrated that clomazone has low acute toxicity, an overall absence of genotoxicity and does not cause reproductive toxicity, developmental toxicity or carcinogenicity.

8. *Endocrine disruption*. No specific tests have been conducted with clomazone to determine whether the herbicide may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. It should be noted, however, that the chemistry of clomazone is unrelated to that of any compound previously identified as having estrogen or other endocrine effects. Additionally, a standard battery of required studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. No endocrine effects were noted in any of these studies with clomazone.

C. Aggregate Exposure

1. *Dietary exposure—Food*. i. For purposes of assessing the potential dietary exposure, EPA has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from the established tolerances for clomazone. The TMRC is a worst case estimate of dietary exposure since it is assumed that 100% of all crops for which tolerances are established are treated and that pesticide residues are present at the tolerance levels. Dietary exposure to residues of clomazone in or on food will be limited to residues on cabbage (0.1 ppm), cottonseed (0.05 ppm), cucumber (0.1 ppm), succulent peas (0.05 ppm), peppers (0.05 ppm), pumpkins (0.1 ppm), soybeans (0.05 ppm), winter squash (0.1 ppm), summer squash (0.1 ppm), sweet potato (0.05 ppm), snap beans (0.05 ppm) rice (0.05 ppm) and sugar (from cane) (0.05 ppm). Various feedstuffs from cotton and soybeans are fed to animals, thus exposure of humans to residues might result if such residues carry through to meat, milk, poultry or eggs. No tolerances are proposed for meat, milk, poultry or eggs since no detectable residues from clomazone have been found in animal feed items in the past or were found in any sugarcane processed animal feed products. Although the RAC bagasse was once a feed item, EPA has concluded that it is now mainly used for fuel. Accordingly molasses is the only sugarcane feed contributing fraction. As noted above, in conducting this exposure assessment, EPA has made very conservative assumptions, i.e., 100% of crops treated will contain clomazone residues and those residues would be at the level of the tolerance. It is FMCs opinion that these assumptions result in an overestimate of human exposure.

ii. *Drinking water*. It is unlikely that there will be exposure to residues of clomazone through drinking water supplies. A field mobility study was conducted at a loamy sand location. Clomazone was found only in the top 0–1 ft. soil samples during the 61 day study period. No clomazone residue (<0.02 ppm) was detected in the deeper soil levels (1–2, 2–3 and 3–4 ft.). Mathematical modeling (PESTANS) was also applied to the loamy sand site. PESTANS showed very limited potential for movement of clomazone. That is, clomazone did not move lower than the top seven inches of soil over the first 30 days with 10 inches of precipitation and 100% recharge. Predictions were also obtained for other soil types including sand, sandy loam, silt loam and clay loam. These outputs yielded a similar conclusion, that clomazone has low potential for downward movement with its highest mobility being sand. The field leaching study and PESTANS modeling results were further confirmed by field dissipation studies conducted in silt loam (IL and AR), sandy loam (NJ), sandy clay loam (NC), silty clay loam (IA) and silt loam (LA) soils. Results of these studies demonstrated that clomazone tended to remain in the top soil layer (0–6), with residues in the 6–12 layer being at or below method sensitivity (0.10 ppm) and generally declining to non-detectable. An aquatic field dissipation study was conducted at locations in AR and TX, having silty clay loam and loam soils characteristics respectively. Soil samples were taken over a period of 12 months following the herbicide application. Detectable residues of clomazone were found only in the 0–6 horizon. Should movement into surface water occur, potential for clomazone residues to be detected in drinking water supplies at significant levels is minimal. Results from an aquatic field dissipation study (static water situation) demonstrated half-lives of 12–13 days, indicating even shorter durations are likely under flowing water situations. Accordingly, there is no

reasonable expectation that there would be an additional incremental aggregate dietary contribution of clomazone through groundwater or surface water.

2. *Non-dietary exposure*. Clomazone is only registered for use on food crops. Since the proposed use on sugarcane is consistent with existing registrations, there will be no non-dietary, non-occupational exposure.

D. Cumulative Effects

Clomazone is an isoxazolidinone herbicide. No other registered chemical exists in this class of chemistry. Therefore, given clomazone s unique chemistry low acute toxicity, the absence of genotoxic, oncogenic, developmental or reproductive effects, and low exposure potential (see Sections A and C), the expression of cumulative human health effects with clomazone and other natural or synthetic pesticides is not anticipated.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above, based on the completeness and reliability of the toxicology data, it is concluded that aggregate exposure due to existing registered uses, and pending uses, of clomazone will utilize less than 1% of the RfD for the U.S. population. Additionally, an analysis concluded that aggregate exposure to clomazone adding sugarcane at a 0.05 ppm tolerance level will utilize 0.04 percent of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. It is concluded that there is a reasonable certainty that no harm will result from aggregate exposure to residues of clomazone, including all anticipated dietary exposure.

2. *Infants and children*. Based on the current toxicological data requirements, the database relative to pre- and post-natal effects for children is complete (See Section B.3). Further, for clomazone, the NOAEL in the two year feeding study which was used to calculate the RfD (0.043 mg/kg/day) is already lower than the NOAELs from the reproductive and developmental studies by a factor of more than 10–fold. Therefore, it can be concluded that no additional uncertainty factors are warranted and that the RfD at 0.043 mg/kg/day is appropriate for assessing aggregate risk to infants, children as well as adults.

Using the conservative exposure assumptions described above, FMC has concluded that the percent of the RfD that will be utilized by aggregate exposure to residues of clomazone in/on sugarcane for non-nursing infants (<1 year old), the population subgroup most sensitive, is 0.114 and the percent of the RfD that will be utilized by the children (1–6 years old) population subgroup is 0.086. The percent of the RfD utilized for infants and children for sugarcane plus all other current and pending (i.e., rice, tanier, cassava and arracacha) clomazone tolerances is 0.872 and 0.510 respectively.

Based on the above information, FMC has concluded that there is a reasonable certainty that no harm will result to infants, children or adults from dietary food consumption exposure to clomazone residues from either sugarcane sourced foods alone or sugarcane sourced foods plus all other clomazone treated human dietary food sources.

F. International Tolerances

There are Codex residue limits for residues of clomazone in or on oilseed rape, potatoes, tobacco, soybeans, rice, cottonseed, sugarcane and peas.

[FR DOC. 01–7644 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1004; FRL–6769–9]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1004, must be received on or before April 27, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–000 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–1004. The official record consists of the documents specifically referenced in

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

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1004 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1004. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

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. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 12, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

K-I Chemical U.S.A. Inc. (K-I Chemical)

0F06127

EPA has received a pesticide petition (0F06127) from K–I Chemical U.S.A. Inc. (K-I Chemical), 11 Martine Avenue, 9th floor, White Plains, New York 10606, proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of calcium 3-oxido-5-oxo-4-propionylcyclohex-3-enecarboxylate (prohexadione calcium) in or on the raw agricultural commodities grass forage at 0.1, grass hay at 0.1, grass straw at 1.2 and grass seed screenings at 3.5 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism in plants (peanuts and apples) is adequately understood.

2. *Analytical method*. The proposed analytical method involves homogenization, extraction, filtration, partition and cleanup, methylation and analysis by a gas chromatography system with a mass selective detector. The limit of quantitation is 0.05 ppm.

3. *Magnitude of residues*. Twelve grass grown for seed trials were conducted with prohexadione calcium in the major cool season grass seed-growing regions of the United States (Nebraska, Minnesota, Montana, Idaho, Oregon and Washington) to determine the magnitude of prohexadione calcium residues in/on grass forage, straw, hay and seed screenings. Grass grown for seed plots received one foliar application of prohexadione calcium at the target rate of 0.5 pounds active ingredient per acre (lb ai/A). The application was applied approximately 35 days prior to the anticipated seed harvest date. All sprays were applied in combination with a locally-available, non-silicone spray adjuvant. Prohexadione calcium residues ranged from <0.05 to 3.38 ppm in seed screenings, <0.05 to 1.04 ppm in straw, <0.05 to 0.06 ppm in forage, and <0.05 to 0.08 ppm in hay. Control samples did not exhibit resides above the limit of quantitation (LOQ) of 0.05 ppm.

B. Toxicological Profile

1. *Acute toxicity*. Based on available acute toxicity data prohexadione calcium does not pose any acute toxicity risks. The acute toxicity studies place technical prohexadione calcium and its formulated end-use products in acute toxicity category III for acute dermal; and in acute toxicity category IV for acute oral, acute inhalation, eye irritation, and skin irritation and the technical material is not a skin sensitizer.

2. *Genotoxicity*. Ames Test (1 Study; point mutation): Negative; *in vitro* V79 Cells CH/HGPRT Locus Mammalian Cell Mutation Assay (1 Study; point mutation): Negative; *in vitro* CHO Cytogenetic Assay (1 Study; Chromosome Damage): Negative; *in vivo* Mouse Micronucleus (1 Study; Chromosome Damage): Negative; *in vivo* Rat Bone Marrow Cytogenetic Assay (1 Study; Chromosomal Damage): Negative; Rec Assay (1 Study; DNA damage and repair): Negative; *in vitro* Rat Hepatocyte (1 Study; DNA damage and repair): Negative

Prohexadione calcium has been tested in a total of 7 genetic toxicology assays consisting of *in vitro* and *in vivo* studies. Based on the results described above, it can be stated in summary that prohexadione calcium did not show any mutagenic activity when tested under the conditions of the studies mentioned above. Therefore, prohexadione calcium does not pose a mutagenic hazard to humans.

3. *Reproductive and developmental toxicity*. The reproductive and developmental toxicity of prohexadione calcium was investigated in a 2–generation rat reproduction study as well as in rat and rabbit teratology studies. The 2–generation rat reproduction study was conducted at dose levels of 0, 500, 5,000 and 50,000 ppm. There were no adverse effects on reproduction parameters seen even at the dose level of 50,000 ppm (5164 mg/kg bw for males and 5,600 mg/kg bw for females). The No Observed Adverse Effect Level (NOAEL) for parental systemic toxicity was 500 ppm (48 mg/kg bw for males and 51 mg/kg bw for females) and the NOAEL for developmental toxicity was 5,000 ppm (270 mg/kg bw for females). Stomach lesions were observed at ≤5,000 ppm. Two mid-dose males and two males and one female of the high-dose from the F_0 died. Body weight and food consumption changes and slight transient reduction in offspring growth were noted at 50,000 ppm. No impairment of reproductive function was observed at any of the dose levels tested.

The reproductive and developmental studies are summarized below. A developmental study was conducted via oral gavage in rats at dose levels of 0, 100, 300, and the 1,000 highest dose tested (HDT) mg/kg bw. The No Observed Adverse Effect Level (NOAEL) for developmental and maternal toxicity was 1,000 mg/kg bw, HDT. This was based on the fact that there were no signs of maternal toxicity, fetotoxicity or teratogenic effects.

A developmental study was conducted via oral gavage in rabbits at dose levels of 0, 40, 200, and 750 (HDT) mg/kg bw. The NOAEL for development toxicity was 40 mg/kg bw and the NOAEL for maternal toxicity was 40 mg/kg bw based on the following findings. Toxicity in the form of maternal mortality with values 16/20 and 4/20 was excessive in the mid- and high-dose group, respectively. Fetal deaths also occurred. Dose levels believed to exceed MTD; NOAELs for maternal and developmental effects are not considered reliable and useful for risk characterization. No teratogenic effects were noted in this study.

i. *Teratogenicity*. Prohexadione calcium had no teratogenic potential at dose levels as high as 1,000 mg/kg bw in the rat and 350 mg/kg bw in the rabbit. The NOAEL for maternal toxicity in the teratogenicity studies is 100 mg/kg bw (rabbit) and 1,000 mg/kg bw (rat), and the NOAEL for fetotoxicity in the teratogenicity studies is 350 mg/kg bw (rabbit) and 1000 mg/kg bw (rat).

An additional teratology study in the same strain of rabbits was conducted at dose levels of 0, 30, 75, and 150 mg/kg bw. The NOAEL for development toxicity was 150 mg/kg bw and the NOAEL for maternal toxicity was 30 mg/kg bw based on the following findings. One low-, two mid-, and three high-dose animals died prior to day 29, however, at the high dose group one died of gavage error and another pneumonia, and the reason for the other deaths could not be determined. No teratogenic or fetoxtoxic effects were noted in this study.

ii. *Oral teratology study*. An oral range-finding gavage teratology study in the same strain of rabbits (5 animals/dose level) was conducted in another independent laboratory. The dose levels selected were 0, 20, 100, 250, 500, and 1,000 mg/kg bw. This range finding study was conducted with a limited number of animals and a limited scope of examination. Based on these results the dose levels selected for the main study at this independent laboratory were 0, 30, 100, and 350 mg/kg bw. The NOAEL for development toxicity was 350 mg/kg bw and the NOAEL for maternal toxicity was 100 mg/kg bw based on the following findings. At the 350 mg/kg bw dose group transient body weight decreases and two abortions were observed. No teratogenic or fetotoxic effects were noted in this study.

iii. *Conclusions from teratology studies*. More than one definitive rabbit teratology study was conducted because issues associated with exceeding the maximum tolerated dose (MTD) in the first study and spurious deaths, apparently not compound-related, in the second study confounded the determination of a NOAEL for maternal toxicity. There were no signs of teratogenic or fetotoxic effects in any study other than the first definitive study in which maternal deaths above the MTD apparently occurred. It is BASF's and K–1 Chemicals' opinion based on a thorough review of the teratology studies that the following overall NOAELs can be derived for the teratology studies:

a. *NOAEL maternal toxicity*. 100 mg/kg body weight (rabbit) and 1,000 mg/kg body weight (rat).

b. *NOAEL prenatal toxicity*. 350 mg/kg body weight (rabbit) and 1,000 mg/kg body weight (rat).

The overall NOAEL of 100 mg/kg bw for maternal toxicity in rabbits is based on the last rabbit study, and is based on

reduction of body weight gain and food intake at dose levels of 250 mg/kg body weight onwards. The NOAEL of 350 mg/kg bw for fetotoxic effects in the rabbit is also based on a reduction in body weight gain. Based on the overall study results, it is concluded that there are no developmental effects of concern.

Based on preliminary discussions with EPA concerning the rabbit teratology studies, EPA concluded that the definitive NOAEL for maternal toxicity considering all of the studies ranges from 30 to 100 mg/kg/bw. Agency scientists further stated that they needed to review the studies in detail to ultimately determine the definitive NOAEL for maternal toxicity. This uncertainty associated with maternal toxicity in the rabbit teratology studies does not impact risk considerations since the risk assessment is based on a lower NOAEL (20 mg/kg bw) in the chronic dog study.

4. *Subchronic toxicity*. The subchronic toxicity of prohexadione calcium was investigated in 90–day feeding studies with rats, mice and dogs. In all these studies, prohexadione calcium displayed low toxicity. Prohexadione calcium showed no signs of neurotoxicity in a 90–day neurotoxicity rat study. Additionally, the results seen in four week feeding range-finding studies for rats and dogs were similar to the findings observed in the 90–day studies in the same animals.

5. *Chronic toxicity*. Based on review of the available data, the Reference Dose (RfD) for prohexadione calcium will be based on a 1–year feeding study in dogs with a threshold No Adverse Effect Level (NOAEL) of 20 mg/kg/day. Using an uncertainty factor of 100, the RfD is calculated to be 0.2 mg/kg/day. The following are summaries of studies submitted to EPA.

Prohexadione calcium was administered to Beagle dogs at dietary concentrations of 0, 20, 200, and 1,000 mg/kg bw for 12 months. Slight changes were observed for hematological and clinical chemical parameters and dilated basophilic renal tubules (without histopathological concurrence) at dose levels greater than 200 mg/kg bw. The NOAEL was 20 mg/kg bw for the males and female dogs.

The 24–month Fisher 344 rat chronic/carcinogenic feeding study was conducted at dose levels of 0, 400, 2,000, 10,000, and 20,000 ppm with 80 male and 80 female animals per dose group. After 26, 52, and 78 weeks, 10 animals were sacrificed (satellite groups). The remaining animals were autopsied after 104 weeks of diet administration. The NOAEL for chronic toxicity was 2,000 ppm for males (93.9 mg/kg bw) and 2,000 ppm for females (114 mg/kg bw). The following effects were observed in the 10,000 and 20, 000 ppm groups:

i. Decreased body weights were observed in both male and female rats at the 20,000 ppm dose level;

ii. Clinical chemical effects (i.e., lower potassium, bilirubin, and glucose levels) were observed in male and female rats at the 20,000 ppm dose level, in the 10,000 ppm dose level, reduced glucose levels were only seen in the males, and increased albumin/globulin ratios, sodium, chloride and calcium levels were observed only in the females;

iii. Increased urine volumes and lower specific gravity were observed in the mid-high and high-dose groups for both male and female rats;

iv. Minor changes in organ weights were noted for animals of the high dose group only, which consisted of increased relative liver, adrenal and kidney weights, the latter also absolute in females only, at week 26; at the end of the study decreased liver weights and increased relative brain and testis weights were noted and these changes were considered to be associated with the decreased body weights;

v. Macroscopic findings revealed an increase of pituitary nodules in the high dose group for both male and female rats which was not confirmed histopathologically and submucosal ectopic tissue in the glandular stomach was found in both male and female rats in the highest dose levels that was confirmed by histopathology which showed an increase of squamous cell hyperplasia in males and of basal cell hyperplasia in the forestomach;

vi. A higher incidence of cellular hyperplasia was observed in the thyroid in the mid-high and high dose levels for male and female rats; and

vii. No increased incidence of neoplasms occurred at any dose levels tested in this study.

In the 24–month B6C3F1 mouse feeding study, conducted at dose levels of 0, 400, 2,000, 20,000, and 40,000 ppm with interim sacrifices at 52 and 78 weeks, prohexadione calcium was negative for oncogenicity. The NOAEL for chronic toxicity was 2,000 ppm for males (279 mg/kg bw) and 2,000 ppm for females (351 mg/kg bw). The following effects were observed in the 20,000 and 40,000 ppm groups:

i. Statistically significant decreases in body weights were observed in male mice at the 20,000 ppm dose level and in female mice at the 40,000 ppm dose level;

ii. A variety of changes in hematological parameters were noted in the respective investigations at weeks 52, 78, and 104, however, most of the changes were not dose related or consistent over time;

iii. Increased absolute and/or relative heart, brain, testes, liver, ovary, and kidney weights were observed in the mid-high and highest dose groups with a slight progression of severity to the highest dose group;

iv. A higher incidence of splenomegaly was observed only in the male mice of the highest dose group;

v. Histopathological examinations revealed an ectopic proliferation of the mucosal and glandular epithelium in the submucosal layer of the glandular stomach in male and female mice in the highest dose group tested, these changes were assessed to represent heteroplastic, ectopic proliferative changes accompanied by lumen dilatation and cytological degeneration;

vi. A higher incidence of hyperkeratosis of the forestomach was observed in both male and female mice and hyperplasia of the squamous epithelium of the forestomach of female male mice was observed in the highest dose group tested;

vii. Vacuolic changes in the exocrine pancreas of the high dose female were observed; and

viii. No increased incidence of neoplasms occurred at any dose levels tested in this study.

a. *Threshold effects*. Based on review of the available chronic toxicity data, K–I Chemical believes EPA will establish the Reference Dose(RfD) for prohexadione calcium at 0.20 mg/kg/day. This RfD for prohexadione calcium is based on the 1–year feeding study in dogs with a threshold NOEL of 20 mg/kg/day in male and female dogs. Using an uncertainty factor of 100, the RfD is calculated to be 0.20 mg/kg/day. Based on the acute toxicity data K–I Chemical believes that prohexadione calcium does not pose any dietary risks.

b. *Non-threshold effects*. Based on EPA Proposed Guidelines For Carcinogen Risk Assessment, K–I Chemical believes that prohexadione calcium will be classified as ''Not Likely a Human Carcinogen''. Under the current assessment method K–I Chemical believes that EPA will classify prohexadione calcium as Group E, no evidence of carcinogenicity based on studies in two species. There was no evidence of carcinogenicity in mice and rat 24–month feeding studies at the dosage levels tested. The doses tested were adequate for identifying a cancer risk.

6. *Animal metabolism*. The metabolism in animals (goats and poultry) is adequately understood.

7. *Endocrine disruption*. No specific tests have been conducted with prohexadione calcium to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity studies (i.e., subchronic and chronic toxicity, teratology and multi-generation reproductive studies) which would suggest that prohexadione calcium produces endocrine related effects.

C. Aggregate Exposure

1. *Dietary exposure*— i. *Food*. For purposes of assessing the potential dietary exposure, K–I Chemical has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from the proposed tolerances for prohexadione calcium in/on peanut nutmeat at 1.0 ppm and apples (pome fruit) at 3.0 ppm. A maximum residue level of 1.0 ppm was used for pears. The TMRC is a worse case estimate of dietary exposure since it is assumed that 100 percent of all crops for which tolerances are established are treated and that pesticide residues are always found at the tolerance levels. The TMRC from the proposed use of prohexadione calcium on peanuts, pears and apples is 0.002570 mg/kg bw/day and utilizes 1.28% of the RfD for the overall U.S. population. The exposure of the most highly exposed subgroup in the population, non-nursing infants (< 1 year old), is 0.025758 mg/kg bw/day and utilizes 12.88% of the RfD. K–I Chemical believes that the use of prohexadione calcium on grass grown for seed will not impact the TMRC.

Prohexadione calcium is currently registered for use on peanuts, apples and pears. Thus, dietary exposure to residues of prohexadione calcium in or on food will be limited to residues on peanuts, apples and pears. Apple pomace, peanut meal and hay are fed to animals; thus exposure of humans to residues in feed items might result if such residues carry through to meat, milk, poultry, or eggs. However, K–I Chemical has concluded that there is no reasonable expectation that measurable residues of prohexadione calcium will occur in meat, milk, poultry, or eggs from these registered uses but residues can be expected to be slightly above the limit of quantitation for kidney of cattle, goats, hogs, horses, and sheep. The Agency has established tolerances in or on the raw agricultural commodities peanuts at 1.0 ppm, peanut hay at 0.6 ppm, pome fruit at 3.0 ppm, kidney of cattle, goats, hogs, horses, and sheep, at 0.10 ppm and meat byproducts except kidney of cattle, goats, hogs, horses, and sheep at 0.05 ppm. The use of prohexadione calcium on grass grown for seed will require tolerances on grass forage, hay, straw and seed screenings, but will not require an increase in the tolerances for kidney or meat byproducts. Thus, K–I Chemical believes there will not be an increase in human dietary exposure to prohexadione calcium from this use.

The following table summarizes the mean dietary exposures and the percents of RfD occupied by these exposures.

SUMMARY: CHRONIC DIETARY EXPOSURE TO PROHEXADIONE CALCIUM.

Group	DRES(Dietary Risk Evaluation System) mg/kg bw/day	% RfD
U.S. Population	2.6	1.3
Nursing Infants (<1 Year Old)	19.3	9.7
Non-Nursing Infants (<1 Year Old)	25.8	12.9
Children 1–6 Years Old	8.7	4.4
Children 7–12 Years Old	3.5	1.8

ii. *Drinking water*. Other potential sources of exposure for the general population to prohexadione calcium are residues in drinking water and exposure from non-occupational sources. Based on studies submitted to EPA for assessment of environmental risk, K–I Chemical does not anticipate exposure to residues of prohexadione calcium in drinking water. There is no established Maximum Concentration Level (MCL) or Health Advisory Level (HAL) for prohexadione calcium under the Safe Drinking Water Act (SDWA).

2. *Non-dietary exposure*. K–I Chemical has not estimated non-occupational exposure to prohexadione calcium since the only pending registration is limited to commercial crop production. Prohexadione calcium products are not labeled for any residential uses, therefore eliminating the potential for residential exposure. Thus, potential for non-occupational exposure of the general population to prohexadione calcium is not present.

D. Cumulative Effects

K–I Chemical is aware of only one other registered compound, trinexapac-ethyl 4- (cyclopropyl-a-hydroxymethylene)-3,5-dioxo-cyclohexanecarboxylic acid ethylester, that has a structure similar to prohexadione calcium. However, K–I Chemical has no information that would indicate that the two compounds have a common mechanism of toxicity. Furthermore, trinexapac is registered for use only on turf. Therefore, even if the compounds were considered similar there would be no cumulative dietary exposure issue because of the differences in use patterns. In summary, dietary exposure to prohexadione calcium should not result in cumulative toxicity with other known chemical compounds.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above and based on the completeness and the reliability of the toxicity data, K–I Chemical has estimated that aggregate exposure to prohexadione calcium will utilize~1.3 % of the RfD for the U.S. population. K–I Chemical concludes that there is a reasonable certainty that no harm will result from the aggregate exposure to residues of prohexadione calcium, including anticipated dietary exposure and non-occupational exposures.

2. *Infants and children*—i. *Developmental toxicity in the rat*. A developmental study was conducted via oral gavage in rats with dosages of 0, 100, 300, and 1,000 (HDT) mg/kg/day with a No-Adverse-Effect Level (NOAEL) of 1,000 mg/kg/day the highest dose tested for developmental and maternal toxicity based on the fact that no effects were observed for any test parameter measured in this study. Therefore, these NOAEL values are significantly higher than the NOAEL from the 1–year feeding study in dogs used to establish the RfD.

ii. *Developmental toxicity in the rabbit*. A series of developmental studies were conducted via oral gavage in rabbits with dosages ranging from 0 to 750 mg/kg/day with a development toxicity NOAEL of 350 mg/kg/day and a maternal toxicity NOAEL of 100 mg/kg/day based on body weight gain reductions. These NOAEL values are higher than the NOAEL from the 1–year feeding study in dogs used to establish the RfD.

iii. *Reproductive toxicity*. A two–generation reproduction study with rats fed dosages of 0, 500, 5,000, and 50,000 mg/kg/day resulted in a reproductive NOAEL of 50,000 ppm (~5,300 mg/kg/bw/day), a developmental NOAEL of 5,000 ppm (270 mg/kg bw/day), and a maternal toxicity NOAEL of 500 ppm (~50 mg/kg bw/day). The developmental NOAEL was based on a slight, transient

reduction in offspring growth. The maternal NOAEL is similar and the reproductive NOAEL is significantly higher (above the limit dose of 1,000 mg/kg/day) than the NOAEL from the one–year feeding study in dogs used to establish the RfD.

iv. *Reference dose*. Since developmental and reproductive toxicity occurs at levels above the levels shown to exhibit parental toxicity and since these levels are significantly higher than those used to calculate the Reference Dose, K–I Chemical believes the Reference Dose of 0.20 mg/kg/day (20 mg/kg/day and an Uncertainty Factor of 100) is an appropriate measure of safety for infants and children.

Dietary exposure of the most highly exposed subgroup in the population, non-nursing infants (< 1 year old) is 0.025758 mg/kg bw/day. This accounts for 12.9 percent of the RfD. There are no residential uses of prohexadione calcium and contamination of drinking water is extremely unlikely. In addition, there were no significant findings in relevant toxicity studies (i.e., subchronic and chronic toxicity, teratology and multi-generation reproductive studies) which would suggest that prohexadione calcium produces endocrine related effects. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, K–I Chemical concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the residues of prohexadione calcium, including all anticipated dietary exposure and all other non-occupational exposures.

F. International Tolerances

A maximum residue level (MRL) has not been established for prohexadione calcium in peanuts, apples, pears or grass grown for seed by the Codex Alimentarius Commission.

[FR Doc. 01–7520 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1011; FRL–6774–5]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1011, must be received on or before April 27, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1011 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Leonard Cole, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5412; e-mail address: cole.leonard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–1011. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1011 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The

PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1011. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

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. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 19, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

McLaughlin Gormley King Company

PP 0F6168

EPA has received a pesticide petition (PP 0F6168) from McLaughlin Gormley King Company, 8810 Tenth Avenue North, Minneapolis, MN 55427 proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of esfenvalerate in or on the raw agricultural commodities unshelled peanut kernels, 0.20 parts per million (ppm); unshelled cocoa beans, 1.00 ppm; shelled almonds, 50 ppm; and shelled walnuts, 15 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant and animal metabolism*. The metabolism and chemical nature of residues of fenvalerate in plants and animals is adequately understood. The fate of fenvalerate has been extensively studied using radioactive tracers in plant and animal metabolism/nature of the residue studies previously submitted to the Agency. These studies have demonstrated that the parent compound is the only residue of toxicological significance. EPA has concluded that the qualitative nature of the residue is the same for both fenvalerate and esfenvalerate.

2. *Analytical method*. There is a practical analytical method utilizing electron-capture gas chromatography (GC) with nitrogen phosphorous detection available for enforcement with a limit of detection (LOD) that allows monitoring food with residues at or above tolerance levels. The LOD for this updated method is the same as that of the current pesticide analytical manual (PAM) II, which is 0.01 ppm.

3. *Magnitude of residues*. Fenvalerate is a racemic mixture of four isomers (S,S; R,S; S,R; and R,R). Technical Asana® (esfenvalerate) is enriched in the insecticidally active S,S-isomer (84%). Tolerance expressions are proposed for esfenvalerate based on the sum of all isomers. The following tolerances are proposed: unshelled peanut kernels, 0.20 ppm; unshelled cocoa beans, 1.00 ppm; shelled almonds, 50 ppm; and shelled walnuts, 15 ppm; resulting from post-harvest treatment. Magnitude of residue studies support the proposed tolerance.

B. Toxicological Profile

1. *Acute toxicity*. A battery of acute toxicity studies places technical esfenvalerate in toxicity category II for acute oral toxicity (rat LD_{50} 87.2 milligrams/kilograms (mg/kg)), category III for acute dermal (rabbit LD_{50} >2,000 mg/kg) and primary eye irritation (mild irritation in rabbits), and category IV for primary skin irritation (minimal skin irritation in rabbits that reversed within 72 hours after treatment). Acute inhalation on technical grade active ingredient was waived due to negligible vapor pressure. A dermal sensitization test on esfenvalerate in guinea pigs showed no sensitization.

2. *Genotoxicty*. Esfenvalerate did not induce micronuclei in bone marrow of

mice given up to 150 mg/kg intraperitoneally. Esfenvalerate did not induce unscheduled DNA synthesis (UDS) in HeLa cells. Other genetic toxicology studies submitted on racemic fenvalerate indicate that the mixture containing equal parts of the four stereoisomers is not mutagenic in bacteria. The racemic mixture was also negative in a mouse host mediated assay and in a mouse dominant lethal assay.

3. *Reproductive and developmental toxicity*. Esfenvalerate was administered to pregnant female rats by gavage in a pilot developmental study at doses of 0, 1, 2, 3, 4, 5, and 20 mg/kg/day and a main study at 0, 2.5, 5, 10, and 20 mg/kg/day. Maternal clinical signs (abnormal gait and mobility) were observed at 2.5 mg/kg/day and above. A maternal no observed adverse effect level (NOAEL) of 2 mg/kg/day was established on the pilot study. The developmental NOAEL was >20 mg/kg/day.

Esfenvalerate was administered by gavage to pregnant female rabbits in a pilot developmental study at doses of 0, 2, 3, 4, 4.5, 5, and 20 mg/kg/day and a main study at doses of 0, 3, 10, and 20 mg/kg/day. Maternal clinical signs (excessive grooming) were observed at 3 mg/kg/day and above. A maternal NOAEL of 2 mg/kg/day was established on the pilot study. The developmental NOAEL was >20 mg/kg/day.

A 2–generation feeding study with esfenvalerate was conducted in the rat at dietary levels of 0, 75, 100, and 300 ppm. Skin lesions and minimal (non biologically significant) parental body weight effects occurred at 75 ppm. The NOAEL for reproductive toxicity was 75 ppm (4.2–7.5 mg/kg/day) based on decreased pup weights at 100 ppm.

4. *Subchronic toxicity.* Two 90–day feeding studies with esfenvalerate were conducted in rats--one at 50, 150, 300, and 500 ppm esfenvalerate, and a second at 0, 75, 100, 125, and 300 ppm to provide additional dose levels. The NOAEL was 125 ppm (6.3 mg/kg/day) based on clinical signs (jerky leg movements) observed at 150 ppm (7.5 mg/kg/day) and above. A three-month subchronic study in dogs was satisfied by 1 year oral study in dogs, in which the NOAEL was 200 ppm (5 mg/kg/day).

5. *Chronic toxicity*. The NOAEL was 200 ppm (5 mg/kg/day). An effect level for dietary administration of esfenvalerate to dogs of 300 ppm had been established earlier in a 3–week pilot study used to select dose levels for the chronic dog study.

One chronic study with esfenvalerate and three chronic studies with fenvalerate have been conducted in mice.

In an 18–month study, mice were fed 0, 35, 150, or 350 ppm esfenvalerate. Mice fed 350 ppm were sacrificed within the first 2 months of the study after excessive self-trauma related to skin stimulation and data collected were not used in the evaluation of the oncogenic potential of esfenvalerate. The NOAEL was 35 ppm (4.29 and 5.75 mg/kg/day for males and females, respectively) based on lower body weight and body weight gain at 150 ppm. Esfenvalerate did not produce carcinogenicity.

In a 2–year feeding study, mice were administered 0, 10, 50, 250, or 1,250 ppm fenvalerate in the diet. The NOAEL was 10 ppm (1.5 mg/kg/day) based on granulomatous changes (related to fenvalerate only, not esfenvalerate) at 50 ppm (7.5 mg/kg/day). Fenvalerate did not produce carcinogenicity.

In an 18–month feeding study, mice were fed 0, 100, 300, 1,000, or 3,000 ppm fenvalerate in the diet. The NOAEL is 100 ppm (15.0 mg/kg/day) based on fenvalerate-related microgranulomatous changes at 300 ppm (45 mg/kg/day). No compound-related oncogenicity occurred.

Mice were fed 0, 10, 30, 100, or 300 ppm fenvalerate for 20 months. The NOAEL was 30 ppm (3.5 mg/kg/day) based on red blood cell effects and granulomatous changes at 100 ppm (15 mg/kg/day). Fenvalerate was not carcinogenic at any concentration.

In a 2–year study, rats were fed 1, 5, 25, or 250 ppm fenvalerate. A 1,000 ppm group was added in a supplemental study to establish an effect level. The NOAEL was 250 ppm (12.5 mg/kg/day). At 1,000 ppm (50 mg/kg/day), hind limb weakness, lower body weight, and higher organ-to-body weight ratios were observed. Fenvalerate was not carcinogenic at any concentration. (A conclusion that fenvalerate is associated with the production of spindle cell sarcomas at 1,000 ppm was retracted by EPA).

EPA has classified esfenvalerate in Group E--evidence of noncarcinogenicity for humans.

The NOAEL was 200 ppm (5 mg/kg/day). An effect level for dietary administration of esfenvalerate to dogs of 300 ppm had been established earlier in a 3–week pilot study used to select dose levels for the chronic dog study.

One chronic study with esfenvalerate and three chronic studies with fenvalerate have been conducted in mice.

In an 18–month study, mice were fed 0, 35, 150, or 350 ppm esfenvalerate. Mice fed 350 ppm were sacrificed within the first 2 months of the study after excessive self-trauma related to skin stimulation and data collected were not used in the evaluation of the oncogenic potential of esfenvalerate. The NOAEL was 35 ppm (4.29 and 5.75 mg/kg/day for males and females, respectively) based on lower body weight (bwt) and body weight gain at 150 ppm. Esfenvalerate did not produce carcinogenicity.

In a 2–year feeding study, mice were administered 0, 10, 50, 250, or 1,250 ppm fenvalerate in the diet. The NOAEL was 10 ppm (1.5 mg/kg/day) based on granulomatous changes (related to fenvalerate only, not esfenvalerate) at 50 ppm (7.5 mg/kg/day). Fenvalerate did not produce carcinogenicity.

In an 18–month feeding study, mice were fed 0, 100, 300, 1,000, or 3,000 ppm fenvalerate in the diet. The NOAEL is 100 ppm (15.0 mg/kg/day) based on fenvalerate-related microgranulomatous changes at 300 ppm (45 mg/kg/day). No compound-related oncogenicity occurred. Mice were fed 0, 10, 30, 100, or 300 ppm fenvalerate for 20 months. The NOAEL was 30 ppm (3.5 mg/kg/day) based on red blood cell effects and granulomatous changes at 100 ppm (15 mg/kg/day). Fenvalerate was not carcinogenic at any concentration.

In a 2–year study, rats were fed 1, 5, 25, or 250 ppm fenvalerate. A 1,000 ppm group was added in a supplemental study to establish an effect level. The NOAEL was 250 ppm (12.5 mg/kg/day). At 1,000 ppm (50 mg/kg/day), hind limb weakness, lower body weight, and higher organ-to-body weight ratios were observed. Fenvalerate was not carcinogenic at any concentration. (A conclusion that fenvalerate is associated with the production of spindle cell sarcomas at 1,000 ppm was retracted by EPA). EPA has classified esfenvalerate in Group E--evidence of noncarcinogenicity for humans.

6. *Animal metabolism*. After oral dosing with fenvalerate, the majority of the administered radioactivity was eliminated in the initial 24 hours. The metabolic pathway involved cleavage of the ester linkage followed by hydroxylation, oxidation, and conjugation of the acid and alcohol moieties.

7. *Metabolite toxicology*. The parent molecule is the only moiety of toxicological significance appropriate for regulation in plant and animal commodities.

8. *Endocrine disruption*. Estrogenic effects have not been observed in any studies conducted on fenvalerate or esfenvalerate. In subchronic or chronic studies there were no lesions in reproductive systems of males or females. In the recent reproduction

study with esfenvalerate, full histopathological examination of the pituitary and the reproductive systems of males and females was conducted. There were no compound-related gross or histopathological effects. There were also no compound-related changes in any measures of reproductive performance including mating, fertility, or gestation indices or gestation length in either generation. There have been no effects on offspring in developmental toxicity studies. EPA is required to develop an endocrine disrupter screening program. EPA will decide whether further testing of esfenvalerate is required when this program is in place.

C. Aggregate Exposure

1. *Dietary exposure*. Tolerances have been established for the residues of fenvalerate/esfenvalerate, in or on a variety of agricultural commodities. In addition, pending tolerance petitions exist for use of esfenvalerate on sugar beets, sorghum, head lettuce, celery, pistachios, and a number of other minor use commodities. For purposes of assessing dietary exposure, chronic and acute dietary assessments have been conducted using all existing and pending tolerances for esfenvalerate. EPA reviewed (August 2, 1997) the existing toxicology data base for esfenvalerate and selected the following toxicological endpoints. For acute toxicity, EPA established a NOAEL of 2.0 mg/kg/day from rat and rabbit developmental studies based on maternal clinical signs at higher concentrations. A margin of exposure (MOE) of 100 was required. For chronic toxicity EPA established the reference dose (RfD) for esfenvalerate at 0.02 mg/kg/day. This RfD was also based on a NOAEL of 2.0 mg/kg/day in the rat developmental study with an uncertainty factor (UF) of 100. Esfenvalerate is classified as a Group E. There is no evidence of carcinogenicity in either rats or mice.

2. *Food*. A chronic dietary exposure assessment was conducted using Novigen's dietary exposure estimate model (DEEM). Anticipated residues and adjustment for percent crop treated were used in the chronic dietary risk assessment. The percentages of the RfD utilized by the most sensitive sub-population, children 1 to 6 years, was 4.6% based on a daily dietary exposure of 0.000911 mg/kg/day. Chronic exposure for the overall U.S. population was 1.9% of the RfD based on a dietary exposure of 0.000376 mg/kg/day. This assessment has been approved by EPA and included pending tolerances (including lettuce) and all food tolerances for incidental residues from use in food handling establishments. EPA has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Esfenvalerate is classified as a Group E carcinogen- -no evidence of carcinogenicity in rats or mice. Therefore, a carcinogenicity risk analysis is not required.

Potential acute exposures from food commodities were estimated using a Tier 3 (Monte Carlo) analysis and appropriate processing factors for processed food and distribution analysis. This analysis used field trial data to estimate exposure and Federal and market survey information to derive the percent of crop treated. EPA considered these data reliable and used the upper end estimate of percent crop treated in order to not underestimate any significant subpopulation. Regional consumption information was taken into account. The MOEs for the most sensitive sub-population (children 1 to 6 years) were 202 and 103 at the 99th and 99.9th percentile of exposure, respectively, based on daily exposures of 0.009908 and 0.019445 mg/kg/day. The MOEs for the general population are 355 and 171 at the 99th and 99.9th percentile of exposure, respectively, based on daily exposure estimates of 0.005635 and 0.011717 mg/kg/day. EPA has stated there is no cause for concern if total acute exposure calculated for the 99.9th percentile yields a MOE of 100 or larger. This acute dietary exposure estimate is considered conservative and EPA considered the MOEs adequate in a final rule (62 FR 63019, November 26, 1997).

3. *Drinking water*. Esfenvalerate is immobile in soil and will not leach into ground water. Due to the insolubility and lipophilic nature of esfenvalerate, any residues in surface water will rapidly and tightly bind to soil particles and remain with sediment, therefore not contributing to potential dietary exposure from drinking water.

A screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's pesticide root zone model (PRZM). Based on this screening assessment, the potential concentrations of a pyrethroid in ground water at depths of 1 and 2 meters are essentially zero (much less than 0.001 parts per billion (ppb)).

Surface water concentrations for pyrethroids were estimated using PRZM^3 and exposure analysis modeling system (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would be treated before consumption. Chronic drinking water exposure was estimated to be 0.000001 mg/kg/day for both the U.S. general population and for non-nursing infants. Less than 0.1% of the RfD was occupied by both population groups.

Using these values, the contribution of water to the acute dietary risk estimate was estimated for the U.S. population to be 0.000019 mg/kg/day at the 99th percentile and 0.000039 mg/kg/day at the 99.9th percentile resulting in MOEs of 105,874 and 51,757, respectively. For the most sensitive subpopulation, non-nursing infants less than 1 year old, the exposure is 0.000050 mg/kg/day and 0.000074 mg/kg/day at the 99th and 99.9th percentile, respectively, resulting in MOEs of 39,652, and 27,042, respectively. Therefore there is reasonable certainty of no harm from exposure to esfenvalerate from drinking water.

4. *Non-dietary exposure*. Esfenvalerate is registered for non-crop uses including spray treatments in and around commercial and residential areas, treatments for control of ectoparasites on pets, home care products including foggers, pressurized sprays, crack and crevice treatments, lawn and garden sprays, and pet and pet bedding sprays. For the non-agricultural products, the very low amounts of active ingredient they contain, combined with the low vapor pressure (1.5×10^{-9} mm mercury at 25 ^{o}C) and low dermal penetration, would result in minimal inhalation and dermal exposure.

To assess risks from (nonfood) short-term and intermediate-term exposure, EPA has recently selected a toxicological endpoint of 2.0 mg/kg/day, the NOAEL from the rat and rabbit developmental studies. For dermal penetration/absorption, EPA selected 25% dermal absorption based on the weight-of-evidence available for structurally-related pyrethroids. For inhalation exposure, EPA used the oral NOAEL of 2.0 mg/kg/day and assumed 100% absorption by inhalation. Individual non-dietary risk exposure analyses were conducted using a flea infestation scenario that included pet spray, carpet, and room treatment, and lawn care, respectively. The total potential short-term and intermediate-term aggregate non-dietary exposure including lawn, carpet, and pet uses are: 0.000023 mg/kg/day for adults, 0.00129

mg/kg/day for children 1 to 6 years, and 0.00138 mg/kg/day for infants less than one year old.

EPA concluded that the potential non-dietary exposure for esfenvalerate are associated with substantial margins of safety (62 FR 63019).

5. *Aggregate exposure—dietary and non dietary exposure*. EPA has concluded that aggregate chronic exposure to esfenvalerate from food and drinking water will utilize 2.0% of the RfD for the U.S. population based on a dietary exposure of 0.000378 mg/kg/day. The major identifiable subgroup with the highest aggregate exposure are children 1 to 6 years old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

The acute aggregate risk assessment takes into account exposure from food and drinking water. The potential acute exposure from food and drinking water to the overall U.S. population provides an acute dietary exposure of 0.011756 mg/kg/day with an MOE of 170. This acute dietary exposure estimate is considered conservative, using anticipated residue values and percent crop treated data in conjunction with Monte Carlo analysis.

Short-term and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. The potential short-term and intermediate-term aggregate risk for the U.S. population is an exposure of approximately 0.0082 mg/kg/day with an MOE of approximately 244.

It is important to acknowledge that these MOEs are likely to significantly underestimate the actual MOEs due to a variety of conservative assumptions and biases inherent in the exposure assessment methods used for their derivation. Therefore, it can be concluded that the potential non-dietary and dietary aggregate exposures for esfenvalerate are associated with a substantial degree of safety. EPA has previously determined (62 FR 63019) that there was reasonable certainty that no harm will result from aggregate exposure to esfenvalerate residues. Head lettuce was included in that risk assessment.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' In a final rule on esfenvalerate (62 FR 63019) EPA concluded, ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical-specific data, much of which may not be presently available.

Although at present the Agency is not certain how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides for which common mechanism issues can be resolved. These pesticides include those that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed). Although esfenvalerate is similar to other members of the synthetic pyrethroid class of insecticides, EPA does not have, at this time, available data to determine whether esfenvalerate has a common method of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, esfenvalerate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that esfenvalerate has a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population*. Both the chronic and acute toxicological endpoints are derived from maternal NOAELs of 2.0 mg/kg/day in developmental studies in rats and rabbits. There were no fetal effects. In addition, no other studies conducted with fenvalerate or esfenvalerate indicate that immature animals are more sensitive than adults. Therefore, the safety factor used for protection of adults is fully appropriate for the protection of infants and children; no additional safety factor is necessary as described below. A chronic dietary exposure assessment using anticipated residues, monitoring information, and percent crop treated indicated the percentage of the RfD utilized by the general population to be 2.0%. There is generally no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

For acute exposure, a MOE greater than 100 is considered adequate. A Tier 3 acute dietary exposure assessment found the general population to have MOEs of 355 and 171 at the 99th and 99.9th percentile of exposure, respectively. These values were generated using actual field trial residues and market share data for percentage of crop treated. These results depict an accurate exposure pattern at an exaggerated daily dietary exposure rate.

Short-term and intermediate-term aggregate exposure risk from chronic dietary food and water plus indoor and outdoor residential exposure for the U.S. population is an exposure of approximately 0.0082 mg/kg/day with an MOE of approximately 244.

Therefore, there is a reasonable certainty that no harm will result from chronic dietary, acute dietary, non-dietary, or aggregate exposure to esfenvalerate residues.

2. *Infants and children*. FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of safety for infants and children unless EPA determines that a different margin of safety will be safe for infants and children. EPA has stated that reliable data support using the standard MOE and UF (100 for combined interspecies

and intraspecies variability) and not the additional ten-fold MOE/UF when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor. In a final rule (62 FR 63019), EPA concluded that reliable data support use of the standard 100-fold UF for esfenvalerate, and that an additional UF is not needed to protect the safety of infants and children. This decision was based on no evidence of developmental toxicity at doses up to 20 mg/kg/day (ten times the maternal NOAEL) in prenatal developmental toxicity studies in both rats and rabbits; toxicity to offspring only at dietary levels which were also found to be toxic to parental animals in the 2–generation reproduction study; and no evidence of additional sensitivity to young rats or rabbits following prenatal or postnatal exposure to esfenvalerate.

A chronic dietary exposure assessment found the percentages of the RfD utilized by the most sensitive subpopulation to be 4.8% for children 1 to 6 years based on a dietary exposure of 0.000957 mg/kg/day. The percent RfD for children 7 to 12 years was 3.0%. The Agency has no cause for concern if RfDs are below 100%.

The most sensitive subpopulation, children 1 to 6 years, had acute dietary MOEs of 202 and 103 at the 99th and 99.9th percentile of exposure, respectively. Nursing infants had MOEs of 195 and 146 at the 99th and 99.9th percentile of exposure, respectively. Non-nursing infants had MOEs of 304 and 158 at the 99th and 99.9th percentile of exposure, respectively. The Agency has no cause for concern if total acute exposure calculated for the 99.9th percentile yields an MOE of 100 or larger. EPA has concluded that the potential short-term or intermediate-term aggregate exposure of esfenvalerate from chronic dietary food and water plus indoor and outdoor residential exposure to children (1 to 6 years old) is 0.0113 mg/kg/day with an MOE of 177. For infants (less than 1 year old) the exposure is 0.0098 mg/kg/day with an MOE of 204. Thus, there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to esfenvalerate residues (62 FR 63019).

F. International Tolerances

Codex maximum residue levels (MRLs) have been established for residues of fenvalerate on a number of crops that also have U.S. tolerances. There are some minimal differences between the section 408 tolerances and certain Codex MRL values. These differences could be caused by differences in methods to establish tolerances, calculate animal feed, dietary exposure, and as a result of different agricultural practices. Therefore, some harmonization of these maximum residue levels will be required.

[FR Doc. 01–7641 Filed 3–27–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1007; FRL–6775–1]

Notice of Filing Pesticide Petitions to Establish Tolerances for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1007, must be received on or before April 27, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1007 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Linda Hollis, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8263; e-mail address: hollis.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–1007. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway,

Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1007 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1007. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

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. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 15, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioner and represent the view of the petitioner. The petition summaries announce the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Valent BioSciences Corporation

PP 6F4632

EPA has received a request from Valent BioSciences Corporation, 870 Technology Way, Suite 100, Libertyville, IL 60048, referencing pesticide petition PP–6F4632 (transferred from Abbott Laboratories), proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.502 by establishing permanent tolerances for residues of the biochemical pesticide aminoethoxyvinylglycine (AVG) in or on the food commodities apples and pears at 0.08 part per million (ppm). EPA issued a final rule, published in the **Federal Register** of May 7, 1997 (62 FR 24835) (FRL–5713–5), which announced that it established time-limited tolerances for residues of the plant regulator AVG in or on the food commodities apples and pears at 0.08 ppm, with an expiration date of April 1, 2001. A correction to this rule was published in the **Federal Register** of October 29, 1997 (62 FR 56089) (FRL–5751–5), which announced the correction of the reference dose (RfD) appearing on page 24836, column three, third full paragraph, line 11, from ''0.0002,'' to ''0.002.'' Because of a then-existing data gap, all initial tolerances were time-limited. The time limitation was established to provide sufficient time for the development and review of additional data, specifically a rat 2–generation reproduction study. Abbott Laboratories submitted such a study on September 27, 1999.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Abbott Laboratories submitted a summary of information, data, and arguments in support of their pesticide petition which was published in the **Federal Register** of February 20, 1997 (62 FR 7778) (FRL–

5589–4). EPA has not republished the summary of information initially submitted by Abbott Laboratories and published in the February 20, 1997 **Federal Register**, except where EPA believes such information would be helpful in understanding the new data. Valent BioSciences Corporation is, however, relying on the previously submitted information in addition to the new data summarized below in support of this pesticide petition to establish permanent tolerances. EPA will take into account all available data when giving due consideration to Valent BioSciences Corporation's petition. Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Valent BioSciences Corporation has submitted the following summary of new information, data, and arguments in support of their pesticide petition. This summary was prepared by Valent BioSciences Corporation and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

AVG is a plant regulator useful in the management practices of apples and pears. It is applied once during the season at low rates (50 grams active ingredient per acre) using airblast sprayers. The product is recommended to be applied to apples and pears 4 weeks prior to the beginning of normal harvest.

B. Product Identity/Chemistry

1. *Magnitude of residue at the time of harvest and method used to determine the residue.* Residue data previously submitted by Abbott Laboratories and reviewed by EPA indicated that at the proposed use rates, no quantifiable residues were present in or on the food commodities at 21 days after treatment. Additional residue data generated internationally has been provided to EPA by Valent BioSciences Corporation. Trials conducted in New Zealand, Chile, and South Africa in various apple cultivars support the proposed permanent tolerances. Residue levels were below the proposed permanent tolerance at 21 days after application. Decline trials indicate rapid degradation of AVG residues among all the apple varieties and geographies evaluated.

The analytical methods for detection of AVG in apple raw agricultural and processed commodities by high performance liquid chromatography were developed by Abbott Laboratories. A practical analytical method for detecting and measuring levels of AVG in or on commodities with a limit of quantitation (LOQ) that allows for monitoring of food, with the residues at or above the levels set in these tolerances has been submitted to EPA. EPA has provided information on this method to the Food and Drug Administration (FDA). The method is available to anyone interested in pesticide residue enforcement.

C. Mammalian Toxicological Profile

1. *Reproductive toxicity.* AVG was evaluated in a rat 2–generation reproduction study submitted by Abbott Laboratories. Rats were dosed at levels of 0, 0.8, 2.5, 4.0, and 8.0 milligrams active ingredient/kilograms body weight/day (mg ai/kg bwt/day). Based on reductions in body weight, changes in organ weights, and increased incidence of microscopic findings, the parental lowest observed effect level (LOEL) was established at 2.5 mg ai/kg bwt/day. The parental no observed adverse effect level (NOAEL) was established at 0.8 mg ai/kg bwt/day. The NOAEL for reproductive toxicity was established at 4.0 mg ai/kg bwt/day. The NOAEL for neonatal toxicity was established at 2.5 mg ai/kg bwt/day.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food.* Expected dietary exposures from residues of AVG would occur through apples, pears, and processed apples and pears. There are no home and garden uses for AVG. Based on the additional information derived from the rat 2–generation reproduction study, Valent BioSciences Corporation proposes that the NOAEL of 0.8 mg ai/kg bwt/day and a safety factor of 100 be incorporated into the chronic risk assessment. The resulting RfD is 0.008 mg ai/kg bwt/day. The proposed permanent tolerances would utilize approximately 9.1% RfD for non-nursing infants and approximately 0.85% for the general population.

ii. *Drinking water.* Spray drift may potentially lead to exposure to residues in drinking water.

2. *Non-dietary exposure.* The only non-dietary exposure expected is to applicators. Exposure to AVG resulting from its application according to label directions is not expected to present risks of adverse health or environmental effects, based on its toxicology profile and occupational risk assessment. Non-occupational exposures (home/garden uses) are not applicable.

E. Safety Determination

1. *U.S. population.* AVG is an amino acid derived from a naturally occurring soil microorganism. Based on the toxicology profile and the low to no detectable residues in the agricultural commodities, Valent BioSciences Corporation concludes that there is a reasonable certainty of no harm resulting from aggregate exposure of AVG to the general population.

2. *Infants and children.* The effects demonstrated in the developmental and immune toxicity studies are considered secondary to the adverse effects upon body weight gain, food consumption and food efficiency in the treated rats. In the rat reproduction study, decreased neonatal survival, decreased pup body weights, and other effects associated with reduced pup weights were observed only at doses greater than those producing effects on the parental animals. The NOAEL for neonates in the reproduction study, 2.5 mg ai/kg bwt/day, was 3 times greater than the NOAEL for parental animals, 0.8 mg ai/kg bwt/day NOAEL, providing an additional built-in safety factor of 3 for the subpopulation of infants and children. The company concludes that there is reasonable certainty that no harm will result to infants and children from aggregate exposure.

2. Valent BioSciences Corporation

PP 9G5048

EPA has received a request from Valent BioSciences Corporation, 870 Technology Way, Suite 100, Libertyville, IL 60048, referencing pesticide petition PP 9G5048 (transferred from Abbott Laboratories), proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.502 by extending the temporary tolerance for residues of the biochemical pesticide AVG in or on food commodities of the stone fruit crop group 12, including apricot, cherry (sweet and tart), nectarine, peach, plum, chickasaw plum, damson plum, Japanese plum, plumcot, and prune (fresh) at 0.170 ppm. EPA issued a final rule, published in the **Federal Register** of June 10, 1999 (64 FR 31124) (FRL–6080–4), which announced that it established a temporary tolerance for residues of the plant regulator AVG in or on food commodities of the stone fruit crop group at 0.170 ppm, with an expiration date of April 1, 2001. This rule also announced that, in considering the sensitivity of infants and children, the thousand-fold safety factor includes

an additional uncertainty factor of 10 for incompleteness of data until a rat 2–generation reproduction study was completed. The study was a condition of registration of the subject active ingredient, and was submitted to the Agency by Abbott Laboratories on September 27, 1999.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Abbott Laboratories submitted a summary of information, data, and arguments in support of their pesticide petition which was published in the **Federal Register** of March 10, 1999 (64 FR 11872) (FRL–6067–5). EPA has not republished the summary of information initially submitted by Abbott Laboratories and published in the March 10, 1999 **Federal Register**, except where EPA believes such information would be helpful in understanding the new data. Valent BioSciences Corporation is, however, relying on the previously submitted information in addition to the new data summarized below in support of this pesticide petition to extend the temporary tolerance. EPA will take into account all available data when giving due consideration to Valent BioSciences Corporation's petition. Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Valent BioSciences Corporation has submitted the following summary of new information, data, and arguments in support of their pesticide petition. This summary was prepared by Valent BioSciences Corporation and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

AVG is a plant regulator useful in the management practices of stone fruit. It is applied once during the season at low rates (50 grams active ingredient per acre) using airblast sprayers. The product is recommended to be applied to stone fruit 7-14 days prior to the beginning of normal harvest. The proposed, amended, experimental use program will be conducted in Alabama, Arkansas, California, Georgia, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Virginia and Washington. The proposed, amended, experimental program would utilize 146 pounds of active ingredient on 1,325 acres, in each year of the proposed 2–year program.

B. Mammalian Toxicological Profile

1. *Reproductive toxicity*. AVG was evaluated in a rat 2–generation reproduction study submitted by Abbott Laboratories. Rats were dosed at levels of 0, 0.8, 2.5, 4.0, and 8.0 mg ai/kg bwt/day. Based on reductions in body weight, changes in organ weights, and increased incidence of microscopic findings, the parental LOEL was established at 2.5 mg ai/kg bwt/day. The parental NOAEL was established at 0.8 mg ai/kg bwt/day. The NOAEL for reproductive toxicity was established at 4.0 mg ai/kg bwt/day. The NOAEL for neonatal toxicity was established at 2.5 mg ai/kg bwt/day.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Expected dietary exposures from residues of AVG would occur through raw and processed commodities of treated stone fruit. There are no home and garden uses for AVG. Based on the additional information derived from the rat 2–generation reproduction study, Valent BioSciences Corporation proposes that the NOAEL of 0.8 mg ai/kg bwt/day and a safety factor of 100 be incorporated into the chronic risk assessment. The resulting RfD is 0.008 mg ai/kg bwt/day. The proposed temporary tolerance on stone fruit in addition to tolerances on apples and pears would utilize approximately 1.7% RfD for the U.S. population in general, and approximately 12.7% for the non-nursing infants.

ii. *Drinking water*. Spray drift may potentially lead to exposure to residues in drinking water.

2. *Non-dietary exposure*. The only non-dietary exposure expected is to applicators. Exposure to AVG resulting from its application according to label directions is not expected to present risks of adverse health or environmental effects, based on its toxicology profile and occupational risk assessment. Non-occupational exposures (home/garden uses) are not applicable to this experimental use permit.

D. Safety Determination

1. *U.S. population*. AVG is an amino acid derived from a naturally occurring soil microorganism. Based on the toxicology profile and the low to no detectable residues in the agricultural commodities, Valent BioSciences Corporation concludes that there is a reasonable certainty of no harm resulting from aggregate exposure of AVG to the general population.

2. *Infants and children*. The effects demonstrated in the developmental and immune toxicity studies are considered secondary to the adverse effects upon body weight gain, food consumption and food efficiency in the treated rats. In the rat reproduction study, decreased neonatal survival, decreased pup body weights and other effects associated with reduced pup weights were observed only at doses greater than those producing effects on the parental animals. The NOAEL for neonates in the reproduction study, 2.5 mg ai/kg bwt/day, was 3 times greater than the NOAEL for parental animals, 0.8 mg ai/kg bwt/day NOAEL, providing an additional built-in safety factor of 3 for the subpopulation of infants and children. The company concludes that there is reasonable certainty that no harm will result to infants and children from aggregate exposure.

[FR Doc. 01–7639 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1003; FRL–6773–5]

Notice of Filing Pesticide Petitions to Establish Tolerances for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1003, must be received on or before April 27, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1003 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6224; e-mail address: miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–1003. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1003 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1003. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

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. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on these petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: March 19, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summaries verbatim without editing them in any way. The petitioner's summaries announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Valent U.S.A. Corporation

PP 5F4440 and 5F4572

EPA has received amended pesticide petitions (5F4440 and 5F4572) from Valent U.S.A. Corporation, 1333 N. California Blvd., Ste. 600, Walnut Creek, CA 94596–8025 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by extending time-limited tolerances for residues of clethodim in or on the raw agricultural commodities (RACs) alfalfa forage at 6 parts per million (ppm), alfalfa hay at 10 ppm, dry beans at 2 ppm, peanut hay at 3 ppm, peanut meal at 5 ppm, peanuts at 3 ppm, tomato paste at 3 ppm, and tomato puree at 2 ppm. Time-limited tolerances on these commodities would expire on April 30, 2003, to allow EPA sufficient time to evaluate new residue data. Valent USA Corporation is not proposing to extend the time-limited tolerance for residues on tomatoes at 1.0 ppm because tolerances are to be issued for residues on fruiting vegetables (except cucurbits), which includes tomatoes, at 1.5 ppm through a separate pesticide petition (0E6097). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. This notice includes a summary of the petitions prepared by Valent U.S.A. Corporation, the registrant.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of ^{14}C-clethodim labelled in the ring structure and in the side chain has been studied in carrots, soybeans, and cotton as well as in lactating goats and laying hens. The major metabolic pathway in plants is initial sulfoxidation, forming clethodim sulfoxide, followed by further oxidation to form clethodim sulfone. These reactions are apparently followed by elimination of the chloroallyloxy side chain to give the imine sulfoxide and sulfone, with further hydroxylation to form the 5–OH sulfoxide and 5–OH sulfone. Clethodim sulfoxide and clethodim sulfone conjugates were also detected as major or minor metabolites, depending on plant species and subfractions. Once the side chain is cleaved from clethodim, the chloroallyloxy moiety undergoes extensive metabolism to eliminate chlorine and incorporate three-carbon moieties into natural plant components.

2. *Analytical method*. Practical analytical methods for detecting and measuring levels of clethodim and its metabolites have been developed and validated in/on all appropriate agricultural commodities, respective processing fractions, milk, animal tissues, and environmental samples. The methods have been validated at independent laboratories, and EPA has successfully performed an analytical method trial. For most commodities, the primary enforcement method is EPA-RM–26D–3, a high performance liquid chromatography (HPLC) method capable of distinguishing clethodim from the structurally related herbicide sethoxydim.

3. *Magnitude of residues*—i. *Fruiting vegetables*. There is an existing time-limited tolerance for tomatoes of 1.0 ppm and Valent U.S.A. Corporation is proposing to replace this tolerance with a 1.5 ppm tolerance for fruiting vegetables based on residue trials conducted on peppers (bell and non-bell) and tomatoes. Six field trials for bell peppers were treated with two post-emergent applications of 0.25 lb. a.i./acre each. Bell pepper fruit was harvested approximately 21 days after the last application. Residues in/on bell pepper fruit samples ranged from 0.11 ppm to 0.89 ppm total clethodim. The highest average field trial (HAFT) residue was 0.79 ppm. The average residue level was 0.46 ppm. Five field trials for non-bell peppers were treated with two post-emergent applications of 0.25 lb. a.i./acre each. Non-bell pepper fruit was harvested approximately 21 days after the last application. Residues in/on non-bell pepper fruit samples ranged from 0.12 ppm to 0.92 ppm total clethodim. The HAFT residue was 0.90 ppm. The average residue level was 0.55 ppm.

Twelve residue trials for tomatoes were treated with two post-emergent applications of 0.25 lb. a.i./acre each. Tomatoes were harvested approximately 20 days after the last application. Clethodim residues ranged from <0.1 to 0.79 ppm. The HAFT residue was 0.77 ppm. The average residue level was 0.37 ppm. To support permanent tolerances on tomatoes, Valent U.S.A. Corporation agreed to conduct four additional residue trials in EPA Region X to bring the total number of trials up to 16. In these four additional trials, tomatoes were treated with two post-emergent applications of 0.25 lb. a.i./acre each. Tomatoes were harvested approximately 20 days after the last application. Clethodim residues ranged from 0.34 to 1.07 ppm. The average residue level for all 16 tomato residue trials was 0.42 ppm. The HAFT residue was 1.04 ppm.

Combining the pepper residue data and the tomato residue data gives an overall average residue in fruiting vegetables of 0.45 ppm. These data from bell and non-bell peppers and tomatoes support a tolerance for fruiting vegetables (except cucurbits, crop group 8) of 1.5 ppm.

ii. *Dry beans*. There is an existing time-limited tolerance for dry beans of 2.0 ppm. This tolerance was supported by nine field trials in which beans were treated with two post-emergent applications of 0.25 lb. a.i./acre each approximately 14 days apart. Beans were harvested approximately 30 days after the last application. Clethodim residues ranged from 0.58 ppm to 1.57 ppm. The HAFT residue was 1.57 ppm. The average residue level for all trials, excluding samples less than the limit of detection, was 0.99 ppm.

To support permanent tolerances on dry beans, Valent U.S.A. Corporation agreed to conduct 3 additional residue trials in EPA Region V to bring the total number of trials up to 12. In these 3 additional trials, beans were treated with two post-emergent applications of 0.25 lb. a.i./acre each approximately 14 days apart. Beans were harvested approximately 30 days after the last application. Clethodim residues ranged from 1.2 ppm to 2.0 ppm. The average residue level for all 12 residue trials, excluding samples less than the limit of detection, was 1.15 ppm. The HAFT residue was 2.0 ppm.

iii. *Peanuts*. There is an existing time-limited tolerance for peanut hay at 3 ppm, peanut meal at 5 ppm, peanuts at 3 ppm. This tolerance was supported by eight field trials in which peanuts were

treated with two post-emergent applications of 0.25 lb. a.i./acre each approximately 14 days apart. Peanuts were harvested approximately 40 days after the last application. Peanuts were dried in the field for 3 to 11 days after which peanuts and peanut hay were sampled. Clethodim residues ranged from <0.05 ppm to 2.7 ppm. The HAFT residue was 1.75 ppm. The average residue level, excluding samples less than the limit of detection, was 0.96 ppm. Residues in peanut hay ranged from 0.22 ppm to 2.6 ppm with a HAFT residue of 2.55 ppm. A processing study was also performed for peanuts and residues were found to concentrate in meal with a concentration factor of 2.78 ppm.

To support permanent tolerances on peanuts, Valent U.S.A. Corporation agreed to conduct 3 additional residue trials in EPA Region V to bring the total number of trials up to 12. In these three additional trials, peanuts were treated with two post-emergent applications of 0.25 lb. a.i./acre each approximately 14 days apart. Peanuts were harvested approximately 40 days after the last application. Clethodim residues ranged from 0.67 ppm to 1.2 ppm in nutmeats and from 0.8 ppm to 2.9 ppm in peanut hay. The average residue level for all 12 residue trials, excluding samples less than the limit of detection, was 0.94 ppm in nutmeats and 1.39 ppm in peanut hay. The HAFT residue was 1.75 ppm and 2.7 ppm in nutmeats and hay, respectively.

B. Toxicological Profile

1. *Acute toxicity*. Clethodim technical is slightly toxic to animals following acute oral (toxicity category III), dermal (toxicity category IV), or inhalation exposure (toxicity category IV). Clethodim is a moderate eye irritant (category III), a skin irritant (category II), and does not cause skin sensitization in the modified Buehler test in guinea pigs. In addition, an acute oral no observed adverse effect level (NOAEL) has been determined in rats to be 300 milligrams/kilogram (mg/kg).

2. *Genotoxicity*. Clethodim does not present a genetic hazard. Clethodim technical did not induce gene mutation in microbial *in vitro* assays. A weak response in an *in vitro* assay for chromosome aberrations was not confirmed when clethodim was tested in an *in vivo* cytogenetics assay up to the maximally tolerated dose level, nor was the response observed *in vitro* using technical material of a higher purity. No evidence of unscheduled DNA synthesis (UDS) was seen following *in vivo* exposure up to a dose level near the LD_{50} (1.5 gram/kilogram (g/kg)). This evidence indicates that clethodim does not present a genetic hazard to intact animal systems.

3. *Reproductive and developmental toxicity*. No reproductive toxicity was observed with clethodim technical at feeding levels up to 2,500 ppm. Developmental toxicity was observed in two rodent species, but only at maternally toxic dose levels. Clethodim is therefore not considered a reproductive or developmental hazard. These studies indicate no unique toxicity to the developing fetus or young, growing animals. The developmental toxicity study conducted with clethodim technical in the rat resulted in a developmental and maternal NOAEL and lowest observed adverse effect level (LOAEL) of 100 and 350 milligrams/kilograms/day (mg/kg/day), respectively. The NOAEL and LOAEL for developmental toxicity were based on reductions in fetal body weight and increases in skeletal anomalies. The developmental toxicity study conducted with clethodim technical in the rabbit resulted in a maternal toxicity NOAEL and LOAEL of 25 and 100 mg/kg/day, respectively. Maternal toxicity was manifested as clinical signs of toxicity and reduced weight gain and food consumption during treatment. Developmental toxicity was not observed, and therefore the developmental toxicity NOAEL was 300 mg/kg/day, highest dose tested (HDT). The 2–generation reproduction study conducted with clethodim technical in the rat resulted in parental toxicity NOAEL and LOAEL of 500 ppm and 2,500 ppm, respectively, based on reductions in body weight in males, and decreased food consumption in both generations. The NOAEL for reproductive toxicity was 2,500 ppm, HDT.

4. *Subchronic toxicity*. Subchronic oral toxicity studies conducted with clethodim technical in the rat and dog indicate a low level of toxicity. Effects observed at high dose levels consisted primarily of decreased body weights, increased liver size (increased weight and cell hypertrophy), and anemia (decreased erythrocyte counts, hemoglobin, or hematocrit) in rats and dogs. The NOAELs from these studies were 500 ppm (ca. 25 mg/kg body weight/day (bwt/day) in rats and 25 mg/kg bwt/day in dogs. A 21–day dermal toxicity study in rats with clethodim technical showed a LOAEL at 100 mg/kg bwt/day and a NOAEL at 1,000 mg/kg bwt/day, the HDT.

5. *Chronic toxicity*. Clethodim technical has been tested in chronic studies with dogs, rats and mice. In chronic studies compound-related effects noted at high doses included decreased body weight, increased liver size (liver weight and hypertrophy), and anemia (decreased hemoglobin, hematocrit, and erythrocyte count). Bone marrow hyperplasia was observed in dogs at the HDT. No treatment-related increases in incidence of neoplasms were observed in any study. Chronic NOAELs were 200 ppm for an 18–month feeding study in mice and 500 ppm for a 24–month study in rats. EPA has established a chronic population adjusted dose (cPAD) for clethodim of 0.01 mg/kg bwt/day, based on the NOAEL in the 1–year oral dog study and an uncertainty factor (UF) of 100. Effects observed at the LOAEL include alterations in hematology and increased absolute and relative liver weights at 75 mg/kg/day.

6. *Animal metabolism*. Ruminant and poultry metabolism studies demonstrated that transfer of administered ^{14}C-clethodim residues to tissues was low. Total ^{14}C-residues in goat milk, muscle, and tissues accounted for less than 0.5% of the administered dose (24 ppm in diet for 3 days), and were less than 0.4 ppm in all cases. In poultry treated at 2.2 mg/kg/day for 5 days, total ^{14}C-residues in eggs, muscle, and most tissues were less than 0.3 ppm, although higher in liver, kidney, and the gastrointestinal track (GI) tract. Residues in eggs were less than 0.2 ppm.

Comparing metabolites detected and quantified from plant and animal metabolism studies shows that there are no significant aglycones in plants which are not also present in the excreta or tissues of animals. Based on these metabolism studies, the residues of concern in crops and animal products are clethodim and its metabolites containing the cyclohexene moiety, and their sulfoxides and sulfones.

7. *Metabolite toxicology*. Metabolism studies of clethodim in rats, crop plants, goats, and hens demonstrate that the parent is very rapidly metabolized and, in animals, eliminated. Because parent and metabolites are not retained in the body, the potential for acute toxicity from *in situ* formed metabolites is low. The potential for chronic toxicity is adequately tested by chronic exposure to the parent at the maximum tolerance dose (MTD) and consequent chronic exposure to the internally formed metabolites.

Two metabolites of clethodim, clethodim imine sulfone and clethodim 5–hydroxy sulfone, have been tested in toxicity screening studies to evaluate the potential impact of these metabolites on the toxicity of clethodim. In general, these metabolites were found to be less

toxic than clethodim technical for acute and oral toxicity studies; reproduction and teratology screening studies; and several mutagenicity studies.

8. *Endocrine disruption*. No special studies to investigate the potential for estrogenic or other endocrine effects of clethodim have been performed. However, a large and detailed toxicology data base exists for the compound including studies in all required categories. These studies include acute, sub-chronic, chronic, developmental, and reproductive toxicology studies including detailed histology and histopathology of numerous tissues, including endocrine organs, following repeated or long-term exposure. These studies show no evidence of any endocrine-mediated effects and no pathology of the endocrine organs. Consequently, Valent U.S.A. Corporation concludes that clethodim does not possess estrogenic or endocrine disrupting properties.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Chronic dietary exposure to clethodim residues was calculated for the U.S. population and 26 population subgroups using anticipated residues (average residues from field residue studies) and accounting for the percent of the crop treated. A parallel analysis was performed assuming 100% of the crop treated. In addition to existing tolerances and those tolerances proposed in this notice, potential chronic dietary exposure to the following treated crops and crop groups is also included in this analysis: sunflower, canola, tuberous and corm vegetables (crop subgroup 1C), root vegetables (except sugarbeet, subgroup 1B), leaves of root and tuber vegetables (group 2), leaf petioles (subgroup 4B), cucurbits (group 9), cranberry, strawberry, and clover.

Chronic dietary exposure was at or below 4.5% of the reference dose (RfD) when accounting for the percent of the crop treated. Calculated exposure increased to a maximum of 32.1% non-nursing infants (<1 year old) using anticipated residues and assuming 100% of the crop treated. Generally speaking, the Agency has no cause for concern if total residue contribution for published and proposed tolerances is less than 100% of the cPAD.

ii. *Drinking water*. Since clethodim is applied outdoors postemergance to growing agricultural crops, the potential exists for clethodim and/or its metabolites to reach ground or surface water that may be used for drinking water. To model very conservative estimates of the potential concentrations of clethodim and its sulfoxide metabolite in drinking water, the Agency used screening concentration in ground water (SCI-GROW) for ground water, and generic expected environmental concentration (GENEEC) for surface water. The sum of the parent and metabolite estimated concentrations in surface water greatly exceeded those in ground water. Dividing the GENEEC derived 56–day average concentration by three gives 10 micrograms per liter parts per billion (ppb) as the Agency's worse case estimate for drinking water contamination (63 FR 1701, April 8, 1998), (FRL–5784–9). Using standard assumptions about body weight and water consumption, the chronic exposure from this drinking water would be 0.00029 and 0.001 mg/kg bwt/day for adults and children, respectively; 10% of the cPAD for children. Based on this worse case analysis, the contribution of water to the chronic dietary risk exceeds food, but is still acceptable.

2. *Non-dietary exposure*. Clethodim is currently registered for use on the following residential non-food sites: Ornamental plants, wooden containers for growing plants, golf course turf, walkways, trails, and paths. There are no indoor uses registered for clethodim. Clethodim kills grassey weeds, and does not control broadleaf weeds. Therefore, clethodim is not used broadcast on turf, but only on edges and walkways, thus greatly reducing the risk of residential exposure. There is one exception, under several state 24(c) registrations, clethodim can be used broadcast on winter dormant perennial turf to control annual grasses. It is conceivable that these outdoor uses could result in acute or short-term residential exposure. However, under current EPA criteria, the registered and proposed uses of clethodim would not constitute a chronic residential exposure scenario. The Agency did calculate that these potential exposures to homeowner applicators and other potential exposed individuals lead to acceptable margins of exposure (MOE) (63 FR 1701). However, because the Agency did not identify short- or intermediate-term dermal toxic endpoints of concern, these risk analyses are no longer necessary.

D. Cumulative Effects

There are other pesticidal compounds that are structurally related to clethodim including sethoxydim, cycloxydim, and tralkoxydim. Analytical methods convert some of these herbicides and their metabolites to common moieties. Plant and animal metabolism data demonstrates that no common metabolites are formed. In consideration of potential cumulative effects of clethodim and other substances that may have a common mechanism of toxicity, there are currently no available data or other reliable information indicating that any toxic effects produced by clethodim would be cumulative with those of other chemical compounds. Thus, only the potential risks of clethodim have been considered in this assessment of aggregate exposure and effects.

Valent U.S.A. Corporation will submit information for EPA to consider concerning potential cumulative effects of clethodim consistent with the schedule established by EPA on August 4, 1997 (62 FR 42020) (FRL–5734–6) and other subsequent EPA publications pursuant to the Food Quality Protection Act (FQPA).

E. Safety Determination

1. *U.S. population—Adult sub-populations*. Using the dietary exposure assessment procedures described above for clethodim, calculated chronic dietary exposure--taking into account percent of crop treated and using anticipated residues--from existing and proposed uses of clethodim is minimal. The estimated chronic dietary exposure from food for the overall U.S. population and many non-child/infant subgroups is 0.000151 to 0.000162 mg/kg bwt/day, 1.5 to 1.6% of the cPAD. Addition of the small but worse case potential chronic exposure from drinking water (calculated above) increases exposure by 0.0003 mg/kg bw/day and the maximum occupancy of the cPAD from 1.6% to 4.6%. Generally, the Agency has no cause for concern if total residue contribution is less than 100% of the cPAD. It can be concluded that there is a reasonable certainty that no harm will result to the overall U.S. population and many non-child/infant subgroups from aggregate, chronic exposure to clethodim residues.

i. *Acute dietary exposure and risk*. An acute dietary endpoint was not identified. Thus, the risk from acute aggregate dietary exposure to clethodim is considered to be negligible.

ii. *Non-dietary exposure and aggregate risk*. Acute, short-term, and intermediate-term dermal and inhalation risk assessments for residential exposure to clethodim are not required because no significant toxicological effects were observed.

2. *Infants and children*—i. *Safety factor*. In assessing the potential for additional sensitivity of infants and children to residues of clethodim, FFDCA section 408 provides that EPA shall apply an additional margin of

safety, up to 10–fold, for added protection for infants and children in the case of threshold effects unless EPA determines that a different margin of safety will be safe for infants and children.

The toxicological data base for evaluating prenatal and postnatal toxicity for clethodim is complete with respect to current data requirements. There are no special prenatal or postnatal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies or the 3–generation reproductive toxicity study in rats. Valent U.S.A. Corporation concludes that reliable data support use of the standard 100–fold UF and that an additional uncertainty factor is not needed for clethodim to be further protective of infants and children.

ii. *Chronic exposure and risk*. Using the conservative exposure assumptions described above (anticipated residues and percent of crop treated), the percentage of the cPAD that will be utilized by dietary (food only) exposure to residues of clethodim ranges from 0.7% for nursing infants (<1 year old), up to 4.5% for children (1–6 years). Adding the worse case potential incremental exposure to infants and children from clethodim in drinking water (0.001 mg/kg bwt/day) greatly increases the aggregate, chronic dietary exposure and the occupancy of the cPAD by 10.0% to 14.5% for children (1–6 years). EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. It can be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate, chronic exposure to clethodim residues.

iii. *Acute dietary exposure and risk*. An acute dietary endpoint was not identified. Thus, the risk from acute aggregate dietary exposure to clethodim is considered to be negligible.

iv. *Non-dietary exposure and aggregate risk*. Acute, short-term, and intermediate-term dermal and inhalation risk assessments for residential exposure to clethodim are not required because no significant toxicological effects were observed.

F. International Tolerances

Codex, Canadian, or Mexican maximum residue levels (MRLs) have been established or proposed for residues of clethodim in/on sugar beets (0.1 ppm), potatoes (0.2 ppm), rape seed (0.5 ppm), rape seed oils (0.5 ppm), sunflower seed (0.5 ppm), and sunflower seed oils (0.05 ppm). There are no conflicts between this proposed action and international residue limits.

[FR Doc. 01–7640 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6959–2]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement in *Eramet Marietta, Inc.,* v. *EPA*, No. 99–1290 (D.C. Cir.).

This case concerns a challenge to the rule entitled National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production, published in the **Federal Register** at 64 FR 27450 on May 20, 1999. The proposed settlement provides for EPA to propose revisions to the Ferroalloys rule that would amend the emission standards applicable to ferromanganese and silicomanganese production in open submerged arc furnaces and extend the compliance deadline by six months.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Copies of the settlement are available from Phyllis Cochran, (202) 564–5566. Written comments should be sent to Jon Devine at Air and Radiation Division (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and must be submitted on or before April 27, 2001.

Anna L. Wolgast,

Acting General Counsel.

[FR Doc. 01–7635 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6959–5]

Proposed CERCLA Administrative Cost Recovery Settlement; United States Department of the Navy

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Hooper Sands site in South Berwick, Maine with the following settling party: United States Department of the Navy. The settlement requires the settling party to seek Congressional authorization and appropriation to pay $1,005,478.00 to the Hazardous Substance Superfund. The settlement includes a covenant not to take administrative action against the settling party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency—New England, Region 1, Suite 1100 (RAA), Boston, Massachusetts 02114–2023, (617) 918–1093 (U.S. EPA CERCLA Docket No. I–98–1041).

DATES: Comments must be submitted on or before April 27, 2001.

ADDRESSES: The proposed settlement is available for public inspection or may be obtained by mail by contacting Kathleen Woodward, U.S. Environmental Protection Agency—New England, Region 1, Suite 1100 (SEL), Boston, Massachusetts 02114–2023, (617) 918–1780. Comments should reference the Hooper Sands Site, South Berwick, Maine and EPA CERCLA Docket No. I–98–1041.

FOR FURTHER INFORMATION CONTACT: Kathleen Woodward, U.S. Environmental Protection Agency—New England, Region 1, Suite 1100 (SEL),

Boston, Massachusetts 02114–2023, (617) 918–1780.

Dated: March 13, 2001.

Patricia L. Meaney,

Director, Office of Site Remediation and Restoration.

[FR Doc. 01–7638 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Standards

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice of issuance of statement of federal financial accounting standards (SFFAS) No. 19).

Board Action

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 1999, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Standards (SFFAS) No. 19, Technical Amendments to Accounting Standards for Direct Loans and Loan Guarantees in Statement of Federal Financial Accounting Standards No. 2.

The Board approved the Statement in December 2000, and submitted it to FASAB principals for a 90-day review. The review period completed on March 20, 2001.

In SFFAS No. 19, the Board adopted a number of technical amendments to SFFAS No. 2 for the following purposes:

(a) Clarify that the cash flow discount method used in the accounting standards prescribed in SFFAS No. 2 is consistent with the method required in the Federal Credit Reform Act of 1990, as amended in July 1997.

(b) Clarify that the effective interest rate of a cohort of direct loans or loan guarantees is the interest rate adjusted for the interest rate re-estimate, as defined in paragraph 9(A), SFFAS No. 18, Amendments to Accounting Standards for Direct Loans and Loan Guarantees in SFFAS No. 2.

(c) Clarify that the measurement for the default costs of direct loans and loan guarantees should include and exclude certain cash flow elements.

The standards prescribed in SFFAS No. 19 are effective for periods beginning after September 30, 2002. Hard copies of the statement will be mailed to the FASAB mailing list. It is also available on the FASAB web site at *www.financenet.gov/fasab.htm* or by calling 202–512–7350.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Mail Stop 6K17V, Washington, D.C. 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463.

Dated: March 22, 2001.

Wendy M. Comes,

Executive Director.

[FR Doc. 01–7567 Filed 3–27–01; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2473]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

March 20, 2001.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by April 12, 2001. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: Review of the Commission's Regulations Governing Television Broadcasting (MM Docket No. 91–221, MM Docket No. 87–8).

Television Satellite Stations Review of Policy and Rules.

Number of Petitions Filed: 1.

Subject: Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (MM Docket No. 00–39).

Number of Petitions Filed: 17.

Subject: Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147).

and

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 96–98).

Number of Petitions Filed: 2.

Subject: Amendment of the Commission's Rules with Regard to the 3650–3700 MHz Government Transfer band (ET Docket No. 98–237, RM–9411).

The 4.9 GHz Band Transferred from Federal Government Use (WT Docket No. 00–32).

Number of Petitions Filed: 4.

Subject: Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide.

Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, Georgia) United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code.

The Use of N11 Codes and Other Abbreviated Dialing Arrangements (CC Docket No. 92–105).

Number of Petitions Filed: 6.

Subject: Implementation of the Satellite Home Viewer Improvement Act of 1999 (CS Docket No. 00–96).

Broadcast Signal Carriage Issues.

Number of Petitions Filed: 2.

Subject: Application of Bidding Credits in the Interactive Video and Data Services Auction (WT Docket No. 98–169, RM–8951).

Number of Petitions Filed: 1.

Subject: Numbering Resource Optimization (CC Docket No. 99–200).

Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717 (CC Docket No. 96–98).

Number of Petitions Filed: 12.

Subject: Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them (PR Docket No. 92–235).

Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services.

Number of Petitions Filed: 2.

Subject: Creation of a Low Power Radio Service (MM Docket No. 99–25, RM 9208, RM–9242).

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–7578 Filed 3–27–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, April 12, 2001. Meeting open to the public. This meeting has been cancelled.

DATE & TIME: Tuesday, April 3, 2001 at 10:00 A.M.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–7823 Filed 3–26–01; 2:57 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval and Submission to OMB Under Delegated Authority

Background

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Robert T. Maahs, Senior Supervisory Financial Analyst (202/872–4935), Douglas W. Carpenter, Supervisory Financial Analyst (202/452–2205) or Tina Robertson, Supervisory Financial Analyst (202/452–2949) for information concerning the specific bank holding company reporting requirements. The following may also be contacted regarding the information collection:

1. *Federal Reserve Board Clearance Officer:* Mary M. West, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

2. *OMB Desk Officer:* Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7860).

SUPPLEMENTARY INFORMATION:

General Information

On November 17, 2000, the Board issued for public comment proposed revisions to certain bank holding company reports (65 FR 69525). The comment period expired on January 16, 2001. The Board of Governors received two comment letters pertaining to the FR Y–9C and two comment letters pertaining to the FR Y–9SP.

One bank holding company requested that the FR Y–9C report and the commercial bank Report of Condition and Income (Call Report; FFIEC 031) use the same format. As noted in the initial proposal, many of the proposed revisions were specifically designed to reduce differences between the FR Y–9C and the bank Call Report. The Federal Reserve approved reporting changes that will introduce more uniformity to certain aspects of regulatory reporting. These reporting changes include bringing a number of items on the FR Y–9C, as well as the overall reporting format of the FR Y–9C, into closer alignment with the Call Report.

A financial holding company (FHC) provided comments on the proposed collection of information on insurance-related activities. The FHC suggested a number of instructional changes and a few minor changes to the line item captions in order to bring the proposed items and instructions into closer alignment with insurance industry terminology and generally accepted accounting principles. The Federal Reserve has adopted many of these suggestions with changes to the line item captions included in the discussion below under ''Current Actions.''

Two bank holding companies questioned the collection of information on the FR Y–9SP for total consolidated assets of the bank holding company on a semiannual basis. They note that many small holding companies only prepare this information once a year for their annual audit. The Federal Reserve will allow bank holding companies to provide reasonable estimates of total consolidated assets if such information is not routinely available by the reporting bank holding company.

Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The FR Y–9 and FR Y–11 series of reports historically have been, and continue to be, the primary sources of financial information on bank holding companies and their nonbanking activities between on-site inspections. Financial information, as well as ratios developed from these reports, are used to detect emerging financial problems, to review performance for pre-inspection analysis, to evaluate bank holding company mergers and acquisitions, and to analyze a holding company's overall financial condition and performance as part of the Federal Reserve System's overall supervisory responsibilities.

Final approval under OMB delegated authority of the revision of the following reports

1. *Report title:* Consolidated Financial Statements for Bank Holding Companies.

Agency form number: FR Y–9C.

OMB control number: 7100–0128.

Frequency: Quarterly.

Reporters: Bank holding companies.

Annual reporting hours: 231,474.

Estimated average hours per response: 33.45.

Number of respondents: 1,730.

Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(c). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form. For periods prior to March 31, 2001, data on Schedule HC–H, Column A, requiring information of ''assets past due 30 through 89 days and still accruing'' and memoranda item 2 will not be publicly disclosed on an individual bank basis.

The FR Y–9C consists of standardized financial statements similar to the Call Report. The FR Y–9C is filed quarterly by top-tier bank holding companies with total consolidated assets of $150 million or more and by lower-tier bank holding companies with total consolidated assets of $1 billion or more. In addition, multibank holding companies with total consolidated assets of less than $150 million with debt outstanding to the general public or

engaged in certain nonbank activities must file the FR Y–9C.

Current Actions: The Board has approved the proposed changes to the FR Y–9C effective with the March 31, 2001, reporting date (June 30, 2001, reporting date for most information on securitization activity [1]) with the following modifications:

• Schedule HI, Consolidated Income Statement, Item 5(i), ''Premiums earned,'' and item 7(d) ''Benefits, losses and expenses from insurance-related activities,'' have been moved from the main portion of this schedule and included in Memorandum item 12. In addition, the caption for item 5(i) has been rephrased as ''Premiums.''

• Schedule HC–C, Loans and Lease Financing Receivables, item 7, ''Loans to foreign governments and official institutions'' was corrected. The proposed form erroneously indicated that Column B, ''In Domestic Offices,'' was not to be reported. However bank holding companies should report both consolidated and domestic office only information for this item.

• Schedule HC–I, Insurance Related Activities, Part I, Property and Casualty, item 1, ''Agent balances'' and item 3, ''Deferred acquisition costs and value of insurance acquired'' have been eliminated and item 4, ''Policy benefits, reserves, and loss adjusted expenses'' has been changed to ''Claims and claims adjustment expense reserves.'' Part II, Life and Health, item 2, ''Asset valuation reserve and interest maximization reserve'' and item 4, ''Liabilities for premiums and other deposit funds'' have been eliminated and item 3, ''Policy benefits, reserves, and loss adjusted expenses'' has been changed to ''Policyholder benefits and contractholder funds.'' In addition the line items in each part of this schedule have been renumbered consecutively.

• Schedule HC–R, Regulatory Capital, item 47, ''Risk participations,'' and item 50, ''Retained recourse on financial assets with low-level recourse'' were corrected. The proposed form erroneously indicated that no information was to be reported in Column F (100% risk weight category), however bank holding companies may report information in that category. Also proposed memorandum item 3(a)(4), ''Other items included in 'Minority interest in consolidated subsidiaries and similar items,' on Schedule HC subject in Tier 1 capital'' was eliminated. Furthermore, Schedule HC–R, memorandum item 5, ''Treasury stock (excluding offsetting debit to the liability for ESOP debt)'' was corrected to indicate that any offsetting debit to the liability for ESOP debt is included in items 5.a and 5.b, as currently reported.

In addition, the Federal Reserve intends to add at a later date certain questions to the FR Y–9C to help identify those bank holding companies that will be required to complete a new report of their holdings in nonfinancial companies. This new report will be proposed in a separate **Federal Register** notice for public comment later this year.

Finally, the Federal Reserve may incorporate other revisions to the FR Y–9C and other bank holding company reports that may become necessary due to changes in Generally Accepted Accounting Principles (GAAP) or to the Capital Adequacy Guidelines.

2. *Report title:* Parent Company Only Financial Statements for Large Bank Holding Companies.

Agency form number: FR Y–9LP.

OMB control number: 7100–0128.

Frequency: Quarterly.

Reporters: Bank holding companies.

Annual reporting hours: 37,985.

Estimated average hours per response: 4.49.

Number of respondents: 2,115.

Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(c). Confidential treatment is not routinely given to the information in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y–9LP includes standardized financial statements filed quarterly on a parent company only basis from each bank holding company that files the FR Y–9C. In addition, for tiered bank holding companies, a separate FR Y–9LP must be filed for each lower tier bank holding company.

Current Actions: The Board has approved the proposed changes to the FR Y–9LP effective with the March 31, 2001, reporting date with the following modification:

• Schedule PI, Parent Company Only Income Statement, item 3, ''Income (loss) before taxes, goodwill charges, and undistributed income'' has been corrected to remove the words ''goodwill charges.'' These words were erroneously inserted into the proposed FR Y–9LP.

3. *Report title:* Parent Company Only Financial Statements for Small Bank Holding Companies.

Agency form number: FR Y–9SP.

OMB control number: 7100–0128.

Frequency: Semiannual.

Reporters: Bank holding companies.

Annual reporting hours: 29,001.

Estimated average hours per response: 3.82.

Number of respondents: 3,796.

Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(c). Confidential treatment is not routinely given to the information in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y–9SP is a parent company only financial statement filed on a semiannual basis by one-bank holding companies with total consolidated assets of less than $150 million, and multibank holding companies with total consolidated assets of less than $150 million that meet certain other criteria. This report, an abbreviated version of the more extensive FR Y–9LP, is designed to obtain basic balance sheet and income statement information for the parent company, information on intercompany transactions, and data for capital adequacy evaluation.

Current Actions: The Board has approved the proposed changes to the FR Y–9SP effective with the June 30, 2001, reporting date with the following modifications:

• Income Statement item 9, ''Income (loss) before income taxes, goodwill charges, and before undistributed income of subsidiary(s)'' has been corrected to remove the words ''goodwill charges.'' These words were erroneously inserted into the proposed FR Y–9SP.

In addition, the Federal Reserve intends to add at a later date certain questions to the FR Y–9SP to help identify those bank holding companies that will be required to complete a new report of their holdings in nonfinancial companies. This new report will be proposed in a separate **Federal Register** notice for public comment later this year.

Final approval under OMB delegated authority to the extension for three years, with revision, of the following reports

1. *Report title:* Quarterly Financial Statements of Nonbank Subsidiaries of Bank Holding Companies.

Agency form number: FR Y–11Q.

OMB control number: 7100–0244.

Frequency: Quarterly.

Reporters: Bank holding companies.

Annual reporting hours: 14,402.

[1] Schedule HC–S, Securitization and Asset Sale Activities, memorandum items 1, 2 and 4 only are to be completed in the March 31, 2001, report. All of Schedule HC–S (excluding Memorandum item 4) is to be completed beginning June 30, 2001.

Estimated average hours per response: 6.35.

Number of respondents: 567.

Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(c). Confidential treatment is not routinely given to most of the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form. For periods prior to March 31, 2001, data on memorandum 7.a, loans and leases past due 30 through 89 days and still accruing, and memorandum item 7.d, loans and leases restructured and included in past due and nonaccrual loans will not be publicly disclosed on an individual bank basis.

The FR Y–11Q is filed quarterly by the top tier bank holding companies for each nonbank subsidiary of a bank holding company with total consolidated assets of $150 million or more in which the nonbank subsidiary has total assets of 5 percent or more of the top-tier bank holding company's consolidated Tier 1 capital, or where the nonbank subsidiary's total operating revenue equals 5 percent or more of the top-tier bank holding company's consolidated total operating revenue. The report consists of a balance sheet, income statement, off-balance-sheet items, information on changes in equity capital, and a memoranda section.

Current Actions: The Board has approved the proposed changes to the FR Y–11Q effective with the March 31, 2001, reporting date.

2. *Report title:* Annual Financial Statements of Nonbank Subsidiaries of Bank Holding Companies.

Agency form number: FR Y–11I.

OMB control number: 7100–0244.

Frequency: Annual.

Reporters: Bank holding companies.

Annual reporting hours: 8,531.

Estimated average hours per response: 3.24.

Number of respondents: 2,633.

Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(c). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form. For periods prior to March 31, 2001, data on Schedule A, item 7.a, loans and leases past due 30 through 89 days, and item 7.d, loans and leases restructured and included in past due and nonaccrual loans will not be publicly disclosed on an individual bank basis.

The FR Y–11I is filed annually by the top tier bank holding companies for each of their nonbank subsidiaries that are not required to file a quarterly FR Y–11Q. The FR Y–11I report consists of similar balance sheet, income statement, off-balance-sheet, and change in equity capital information that is included on the FR Y–11Q. However, some of the items on the FR Y–11I are collected in a less detailed manner. In addition, the FR Y–11I also includes a loan schedule to be submitted only by respondents engaged in credit extending activities.

Current Actions: The Board has approved the proposed changes to the FR Y–11I effective with the December 31, 2001, reporting date.

Board of Governors of the Federal Reserve System, March 22, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–7568 Filed 3–27–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background

Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Mary M. West—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829)

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7860)

Final Approval Under OMB Delegated Authority of the Implementation of the Following Report

1. *Report title:* Central Bank Survey of Foreign Exchange and Derivatives Market Activity

Agency form number: FR 3036.

OMB Control number: 7100–0285.

Frequency: One-time.

Reporters: Financial institutions that serve as intermediaries in the wholesale foreign exchange and derivatives market, dealers, and brokers.

Annual reporting hours: 9,458 hours.

Estimated average hours per response: Turnover survey: 50 hours; outstandings survey: 15 hours for FR 2436 reporters, 60 hours for non-FR 2436 reporters.

Number of respondents: 161.

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a), 353–359, and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The survey is the latest in an ongoing series of surveys conducted by central banks every three years. The survey will be conducted in April and June of 2001 by the Federal Reserve Bank of New York. Data from the survey will provide information about the size and structure of the global markets for foreign exchange and financial derivatives transactions. The survey is part of a data collection effort conducted by over fifty other central banks and monetary authorities. The data will be useful to the Federal Reserve Board, other government agencies, and market participants for determining public policy relating to financial markets. Aggregate results from each central bank's survey will be provided to the Bank for International Settlements for the production of global market statistics.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Reports

1. *Report titles:* Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer; Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer.

Agency form number: FR MSD–4, FR MSD–5.

OMB control number: 7100–0100, 7100–0101.

Frequency: On occasion.

Reporters: State member banks, bank holding companies, and foreign dealer banks engaging in activities as municipal securities dealers.

Annual reporting hours: 36 (FR MSD–4), 20 (FR MSD–5).

Estimated average hours per response: 1.00 (FR MSD–4), 0.25 (FR MSD–5).

Number of respondents: 36 (FR MSD–4), 80 (FR MSD–5).

Small businesses are not affected.

General description of report: These information collections are mandatory (15 U.S.C. 78o–4, 78q, and 78u) and are given confidential treatment (5 U.S.C. 552(b)(6)).

Abstract: The MSD–4 collects information, such as personal history and professional qualifications, on an employee whom the bank wishes to assume the duties of a municipal securities principal or representative. The FR MSD–5 collects the date of, and reason for, termination of such an employee.

2. *Report titles:* Notice by Financial Institutions of Government Broker or Government Securities Dealer Activities; Notice by Financial Institutions of Termination of Activities as a Government Securities Broker or Government Securities Dealer.

Agency form number: FR G–FIN, FR G–FINW.

OMB control number: 7100–0224.

Frequency: On occasion.

Reporters: State member banks, foreign banks, uninsured state branches or state agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge corporations.

Annual reporting hours: 25 (FR G–FIN), 0.5 (FR G–FINW).

Estimated average hours per response: 1.00 (FR G–FIN), 0.25 (FR G–FINW).

Number of respondents: 25(FR G–FIN), 2(FR G–FINW).

Small businesses are affected.

General description of report: These information collections are mandatory (15 U.S.C. 78o–5(a)(1)(B)) and are not given confidential treatment.

Abstract: The Government Securities Act of 1986 (the Act) requires financial institutions to notify their appropriate regulatory authority of their intent to engage in government securities broker or dealer activities, to amend information submitted previously, and to record their termination of such activity. The Federal Reserve Board uses the information in its supervisory capacity to measure compliance with the Act.

Board of Governors of the Federal Reserve System, March 22, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–7569 Filed 3–27–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 23, 2001.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. TFC Holding Company, Los Angeles, California; to become a bank holding company by acquiring 100 percent of the voting shares of InterBusiness Bank, N.A., Los Angeles, California.

Board of Governors of the Federal Reserve System, March 23, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–7633 Filed 3–27–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 01-7145) published on page 16058 of the issue for Thursday, March 22, 2001.

Under the Federal Reserve Bank of Cleveland heading, the entry for Charter One Financial, Inc., Cleveland, Ohio, is revised to read as follows:

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Charter One Financial, Inc., Cleveland, Ohio; to acquire Alliance Bancorp, Hinsdale, Illinois, and thereby indirectly acquire Liberty Federal Bank, Hinsdale, Illinois, and thereby engage in permissible savings association activities, pursuant to § 225.28(b)(4)(ii) of Regulation Y; Liberty Financial Services, Inc., Hinsdale, Illinois, and thereby engage in permissible financial advice and securities brokerage activities, pursuant to § 225.28(b)(7)(i) of Regulation Y; Preferred Mortgage Associates, LTD (a.d.a. Liberty Home Mortgage), Lombard, Illinois, and thereby engage in mortgage origination and loan brokerage activities, pursuant to §§ 225.28(b)(1) and (4)(ii) of Regulation Y; LFB Operations LLC, and LFB Compliance LLC, both of Hinsdale, Illinois, and thereby engage in holding mortgage loans and operating a real estate investment trust, pursuant to §§ 228.25(b)(1) and (4)(ii) of Regulation Y; Churchview Limited Partnership, and Kedzie Limited Partnership, both of Hinsdale, Illinois, and thereby engage in permissible community development activities, pursuant to §§ 225.28(b)(4)(ii) and (b)(12) of Regulation Y.

Comments on this application must be received by April 16, 2001.

Board of Governors of the Federal Reserve System, March 22, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–7571 Filed 3–27–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 11, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. East Side Bancorporation, Inc., Chicago, Illinois; to purchase loan participations, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y.

2. MB Financial, Inc., and its subsidiary, Manufacturers National Corporation, both of Chicago, Illinois; to a acquire FSL Holdings, Inc., South Holland, Illinois, and thereby indirectly acquire voting shares of First Savings & Loan Association of South Holland, South Holland, Illinois, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y. Comments regarding this application must be received not later than April 20, 2001.

Board of Governors of the Federal Reserve System, March 22, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–7572 Filed 3–27–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, April 2, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 23, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–7697 Filed 3–23–01; 4:10 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

[Docket No. R–1098]

Pro Forma Financial Statements For Federal Reserve Priced Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice with request for comments.

SUMMARY: The Board requests comment on a proposal to discontinue the quarterly publication of interim pro forma financial statements for Federal Reserve priced services (pro formas). The Board believes information provided in the quarterly pro formas are of little value to parties interested in the Federal Reserve's priced-services financial results because it does not provide a relevant long-term cost-recovery assessment.

DATES: Comments must be submitted by April 23, 2001.

ADDRESSES: Comments, which should refer to Docket No. R–1098, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551 or mailed electronically to *regs.comments@federalreserve.gov*. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, pursuant to § 261.12, except as provided in § 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT: Gregory L. Evans, Manager (202/452–3945); or Elizabeth Miyagi, Financial Analyst (202/452–2222), Division of Reserve Bank Operations and Payment Systems.

SUPPLEMENTARY INFORMATION: Currently, the Board publishes pro forma financial statements for Federal Reserve priced services (pro formas) for the first, second, and third quarters each year in the *Federal Reserve Bulletin* and the annual pro formas in the *Annual Report of the Board of Governors of the Federal Reserve System.*

The Monetary Control Act of 1980 (MCA) requires the Federal Reserve to set fees for its priced services to recover, over the long term, its actual costs of providing the services, as well as imputed costs and profits. Although it is not required by MCA, the Board has published the pro formas since 1984 to provide information to the public in a manner that is similar to the information published by other service providers.

The Federal Reserve uses a ten-year cost recovery rate as a benchmark to assess Reserve Bank compliance with MCA. The Board believes the ten-year historical recovery rate, together with the annual pro formas published in the Board's *Annual Report* and the additional cost-recovery information

included in the annual repricing **Federal Register** notice, provides the relevant information for the public to evaluate the Federal Reserve's performance under the MCA. The information provided in the quarterly pro formas, therefore, are of little value to parties interested in priced-services financial results because they do not provide a relevant long-term cost-recovery assessment.

Accordingly, the Board proposes to discontinue the quarterly publication of the pro formas. The Board will continue to publish, however, the annual pro formas in the *Annual Report* and the additional cost-recovery information included in the annual repricing **Federal Register** notice. The latest publication of the quarterly pro formas may be found in the February 2001 issue of the *Federal Reserve Bulletin.* The public may order the document online from the Board's web site at *http://www.federalreserve.gov/pubs/bulletin/default.htm.*

The Board requests comments on whether there are benefits to continuing the publication of the quarterly pro formas and, if so, what elements of the current pro formas provide the most relevant information.

By order of the Board of Governors of the Federal Reserve System, March 22, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–7570 Filed 3–27–01; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Public Buildings Service, Notice of Availability of the Record of Decision; Proposed Federal courthouse and office building, Eugene/Springfield metro area, Lane County, Oregon

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, as implemented by the Council on Environmental Quality (40 CFR Parts 1500–1508), the General Services Administration (GSA) is making available to other government and interested private parties, the Record of Decision (ROD) for the proposed construction of a 265,290 gross square feet Courthouse and office building including 80 secured parking spaces that will be located in the urban center of Eugene, Lane County, Oregon. The location currently known as the Chiquita site which was designated alternative 2, option A in the Final Environmental Impact Statement, is the preferred alternative and has been selected as the location of the new courthouse.

The ROD is on file and a copy may be obtained from John L. Meerscheidt, Herrera Environmental Consultants, 2200 Sixth Ave, Suite 601, Seattle, Washington, 98121 (206.441.9080) For further information, contact Michael D. Levine—U.S. General Services Administration, Region 10, (10PCP), 400 15th Street, SW., Auburn, Washington, 98001 (206) 931–7263. A copy of the ROD can be viewed at the following website: w4.gsa.gov/r10/EugeneCourthouse/

Dated: March 8, 2001.

Robin G. Graf,

Acting Regional Administrator (10A).

[FR Doc. 01–7583 Filed 3–27–01; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Nominations

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of Nominations.

SUMMARY: The purpose of this notice is to solicit nominations for membership on the National Committee on Vital and Health Statistics (NCVHS). The NCVHS is the statutory public advisory body to the Department of Health and Human Services (HHS) in the areas of health data policy, data standards, health information privacy and population-based data. The Committee has been assigned new advisory responsibilities in health data standards and health information privacy as a result of the Health Insurance Portability and Accountability Act. Several vacancies are expected to occur on the Committee as of June 2001. New members of the Committee will be appointed to terms of up to four years by the Secretary of Health and Human Services from among persons who have distinguished themselves in the following fields: health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care integrated computerized health information systems, health services, research, consumer interests in health information, health data standards, epidemiology, and the provision of health services.

In appointing members, the HHS will give close attention to equitable geographic distribution and to minority and female representation. Appointments will be made without discrimination on the basis of age, race, gender, sexual orientation, HIV status, cultural, religious or socioeconomic status.

DATES: Nominations for new members should include a letter describing the qualifications of the nominee and the nominee's current resume or vitae. The information submitted must include complete name, title, and current address and telephone numbers. The closing date for nominations is April 27, 2001.

Nominations should be sent to: James Scanlon, Executive Staff Director, HHS Data Council, U.S. Department of Health and Human Services, Room 440–D, 200 Independence Avenue SW., Washington, DC 20201, Telephone: (202) 690–7100.

FOR FURTHER INFORMATION CONTACT: James Scanlon at (202) 690–7100 or Marjorie Greenberg at (301) 458–4245. Additional information about the NCVHS, including the charter, current roster, current activities and organization, and previous recommendations and reports is available on the NCVHS website: *http://www.ncvhs.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Committee on Vital and Health Statistics serves as the statutory public advisory body to the Department of Health and Human Services in the area of health data policy.

In that capacity, the Committee, which celebrated its 50th anniversary last year, provides advice and assistance to HHS on a variety of key health data issues, including health data standards, privacy, population-based-data, and national health information infrastructure issues.

The Committee also provides advice to HHS on the implementation of the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996. The Committee consists of 18 members: Of the 18 members, one is appointed by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives; one is appointed by the President pro tempore of the Senate after consultation with the minority leader of the Senate, and 16 are appointed by the Secretary of Health and Human Services.

Dated: March 16, 2001.

William F. Raub,

Acting Assistant Secretary for Planning and Evaluation.

Dated: March 16, 2001.

John M. Eisenberg,

Director, Agency for HealthCare Research and Quality, Cochairpersons, HHS Data Council.

[FR Doc. 01–7632 Filed 3–27–01; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01035]

Grants for Education Programs in Occupational Safety and Health: Training Project Grant for Cross-Cultural Training in the Pacific Rim Basin Region; Notice of Availability of Funds for Fiscal Year 2001

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for an institutional training project grant (TPG) in occupational safety and health. This program will support the development of a Pacific Rim Basin focus in occupational safety and health. For the purposes of this announcement, the areas include Hawaii, the Marshall Islands, the Federated States of Micronesia, Palau, Samoa and the Northern Marianas with collaborative activities in countries, such as, Singapore and Taiwan. This program addresses the ''Healthy People 2010'' focus area of occupational safety and health. The goal of the program is to provide an adequate supply of qualified personnel to carry out the purposes of the Occupational Safety and Health Act. The specific program objective of this grant is to provide financial assistance to an eligible institution to assist in providing an adequate supply of qualified professional occupational safety and health personnel to address occupational and environmental exposure to toxins in the Pacific Rim Basin. This project will be supported as a Long-Term Training Project Grant (TPG).

B. Eligible Applicants

Any public or private educational or training agency or institution with disciplines relevant to the field of occupational safety and health and which is located in a state, the District of Columbia, or U. S. Territory, is eligible to apply for a training grant.

Preference will be given to academic institutions in the Pacific Rim Basin dealing with transitional economies which expose workers to a multitude of new occupational and environmental exposures in a large minority population. Transitional economies can be defined as those which are moving from traditional types of industries and products to newer and diverse industries dominating the marketplace.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds and Types of Training Awards

Approximately $250,000 is available in 2001 to fund one award. It is expected that the award will begin on or about August 1, 2001 and will be made for a 12-month budget period within a project period of up to five years. Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

The following are intended to serve as applicant requirements:

1. The applicant must document that the program(s) cover an occupational safety and health discipline in critical need or meets specific regional workforce needs in the Pacific Rim Basin Region. There shall be a minimum of three full-time students or full-time equivalent students in each academic program. Applicants should address the importance of providing training and education content related to special populations at risk, including minority and disadvantaged workers and multicultural populations. Justification should be provided in support of the degree levels proposed for financial assistance.

2. The types of training currently eligible for support are:

a. Undergraduate and other pre-baccalaureate training for disciplines, such as nursing and psychology, which provide trainees with capabilities for positions in business, industry, community agencies, government and labor organizations.

b. Special technical or other programs, such as short-term training programs for interdisciplinary training in occupational safety and health.

3. Curriculum content should focus on occupational health of workers in multicultural populations. The focus should be on occupational/environmental exposures and illness in tropical regions, including pesticides and environmental toxins found in farming and fisheries. Content should also include the behavioral and social aspects of work and work organization. Field experiences should be provided, including direct hands on work with exposures and environmental agents found in the region. Training plans and curricula should be structured and clearly identified for each level of training as well as the number of full and part-time students proposed.

4. Collaborative relationships should be established within the university and with external institutions and agencies that work with the culturally diverse community to serve as resources for the program and to promote education in the occupational health of multicultural populations. Examples of collaborating groups could include:

a. The disciplines of medicine, engineering, safety, nursing, business, psychology and others in the behavioral and social sciences.

b. Industry, labor, the public sector and worker organizations.

5. The Program Director shall be a full-time faculty member, preferably with education and experience in the occupational safety and health field. Consultants and adjunct faculty should be available and provide needed expertise in the field of occupational safety and health.

6. Key faculty should be full-time faculty with documented experience and education in their appropriate fields.

7. The applicant should include a plan for student recruitment, including entrance requirements.

8. The applicant shall include a plan for evaluation of the program, including placement of graduates, tracking of graduates, and contributions that graduates are making in providing programs for workers and meeting the occupational health and safety needs of populations in the region.

9. An Advisory Committee should be established representing stakeholders in occupational safety and health in the Pacific Rim Basin region, and should comprise members representing industry, the business community, professional groups, the public sector and labor groups.

E. Application Content

Competing Applications

Applications will be evaluated on the basis of the Program Requirements, Other Requirements, and Evaluation

Criteria sections listed, so it is important to follow them in laying out the program plan. The narrative should be no more than 15 pages per program. Prepare the application single-sided, staying within margin limitations indicated on the form and continuation pages. The print must be clear and legible. Use standard size, black letters that can be clearly copied. Do not use photo reduction. Prepare all graphs, diagrams, tables and charts in black ink. The application must contain only material that can be photocopied. Do not include course catalogues and course brochures. When additional space is needed to complete any of the items, use plain white paper (8 ½ × 11 inches), leave ½-inch margin on each side, identify each item by its title, and type the name of the program director and the grant number in the upper right corner of each page. All pages, including Appendices should be numbered consecutively at least ½ in from the bottom of the page.

Note: Please consult the detailed Recommended Outline for a Training Project Grant for Cross-Cultural Training in the Pacific Rim Basin Region On the CDC website at *www.cdc.gov/od/pgo/forminfo.htm*

F. Submission and Deadline

Applications should be clearly identified as an application for a TPG Training Grant.

Application

Submit the original and two copies of CDC 2.145 A–TPG (OMB Number 0920–00261). Forms are in the application kit. Forms and instructions are also available on the CDC home page *http://www.cdc.gov.* On or before May 11, 2001 submit the application to the Grants Management Specialist identified in Section J of this announcement, ''Where to Obtain Additional Information''.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. The extent of the occupational health and safety needs of populations in the Pacific Rim Basin area based on factors such as, a transitional economy, the nature of the workforce and workplaces, the composition of the population with respect to diverse cultures, and unique exposures in tropical climates. Documentation shall be provided of the need for training in the program area(s) outlined by the application and the contribution this project will make toward meeting the need for specialized training in occupational safety and health in the region.

2. Evidence of a plan describing the training program(s) that are proposed. Should include a plan for student recruitment, projected enrollment, job opportunities, and regional need for programs addressing the under-representation of minorities in the occupational safety and health field. The goals, elements of the program, faculty and amount of effort, facilities and equipment and methods for implementing and evaluating the program shall be documented.

3. Curriculum content and design which should include formalized program objectives, minimal course content to achieve degrees, course sequence, related courses open to students, time devoted to lecture, laboratory and field experience, nature and the interrelationship of these educational approaches. Field experiences shall include ongoing supervised hands-on experiences as part of the program of study.

4. Previous records of training in this or related areas, including placement of graduates.

5. The extent to which the program has initiated collaborative relationships with internal and external agencies and institutions to strengthen its training capabilities.

6. Methods in use or proposed to evaluate effectiveness of the training, including the use of feedback mechanisms from graduates and employers, placement of graduates, and reports from cooperative activities with other schools and institutions.

7. Degree of institutional commitment: Is grant support necessary for program initiation or continuation? Will support gradually be assumed? Is there related instruction that will go on with or without the grant?

8. Adequacy of facilities (classrooms, laboratories, library services, books, and journal holdings relevant to the program, and access to appropriate occupational settings).

9. Evidence of a plan for establishment of an Advisory Committee, including meeting times, members, roles and responsibilities. The Committee should meet at least annually to provide advice and periodic evaluation of TPG activities.

10. Evidence of a plan to develop a strategy for evaluating the impact that the program has had on the region. Examples could include a workforce needs survey, consultation programs provided to address regional occupational safety and health problems, a program data base to track the contributions of graduates to the occupational safety and health field.

11. The establishment of new and innovative programs and approaches to training and education relevant to the occupational safety and health field and based on documentation that the program meets specific regional and cultural needs. In reviewing such proposed programs, consideration shall be given to the developing nature of the program and its capability to produce graduates who will meet such workforce needs.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. progress reports (annual and may be incorporated as component of non-competing continuation applications);

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial status and progress reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in Section J of this announcement, ''Where to Obtain Additional Information''.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment 1 available with the application from the Grants Management Specialist.

AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

Data collection initiated under this training grant program has been approved by the Office of Management and Budget under Number 0920–0261. ''Training Grants, Application and Regulations—42 CFR Part 86,'' Expiration Date 01/31/2004.

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 21(a) of the Occupational Safety and Health Act [29 U.S.C. 670(a)]. Regulations applicable to this Program are in 42 CFR 86, ''Grants for Education Programs in Occupational Safety and Health''. The Catalog of Federal Domestic Assistance number is 93.263.

J. Where To Obtain Additional Information

This and other CDC announcements are available through the CDC homepage on the Internet. The address for the CDC home page is: *http://www.cdc.gov.*

Please refer to Program Announcement 01035 when you request information. To receive additional written information and to request application materials call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the announcement number of interest. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sonia Rowell, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 01035, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2724, Email address: *svp1@cdc.gov.*

For program technical assistance, contact: Bernadine Kuchinski, Occupational Health Consultant, Office of Extramural Programs, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, N.E., Mailstop D–40, Atlanta, Georgia 30341, Telephone (404) 639–3342, Email address: bbk1@cdc.gov

Dated: March 21, 2001.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–7585 Filed 3–27–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

The Fourth Annual Educational Workshop––Current Topics in Regulatory Affairs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA), in cosponsorship with the Orange County Regulatory Affairs (OCRA) discussion group, is announcing its Fourth Annual Educational Workshop intended to give the drugs, devices, and biologics industries an opportunity to interact with FDA's reviewers and compliance officers from FDA's centers and district offices. The main focus of this interactive workshop is to provide regulatory updates, guidances, and recommendations regarding new product submissions, postapproval changes, and postmarketing issues.

Date and Time: The meeting will be held on May 21 and 22, 2001, 7:30 a.m. to 5 p.m.

Location: The meeting will be held at The Irvine Marriott, 18000 Von Karman Ave., Irvine, CA.

Contact: Ramlah I. Oma, Food and Drug Administration, 19900 MacArthur Blvd., suite 300, Irvine, CA 92612, 949–798–7611, FAX: 949–798–7656, or Peri Ann DiRocco, OCRA discussion group, PMB 624, 5405 Alton Pkwy., suite 5A, Irvine, CA 92604, voice/FAX: 949–348–9141, e–mail: sdirocco@aol.com, www.ocra-dg.org.

Registration and Requests for Oral Presentations: Space is limited. Preregistration and confirmation are required. Send registration information (including name, title, firm name, address, telephone, and fax number), written material, and requests to make oral presentations directly to the OCRA Web site.

If you need special accommodations due to a disability, please contact Ramlah I. Oma at least 10 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: March 20, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–7565 Filed 3–27–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4396]

Guidance for Industry on Financial Disclosure by Clinical Investigators; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''Financial Disclosure by Clinical Investigators.'' FDA published a final rule requiring anyone who submits a marketing application for any drug, biologic, or device to submit certain information concerning the compensation to, and financial interests of, any clinical investigator conducting clinical studies covered by the rule. These requirements took effect on February 2, 1999. This guidance is intended to provide clarification and respond to questions and comments concerning implementation of the final rule.

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies of the guidance entitled ''Financial Disclosure by Clinical Investigators'' to Mary C. Gross, Office of International and Constituency Relations (HF–24), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send a self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mary C. Gross, Office of International and Constituency Relations (HF–24), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3450.

SUPPLEMENTARY INFORMATION:

I. Background

The financial disclosure by clinical investigators regulations require that financial interests and arrangements of clinical investigators that could affect the reliability of data submitted to FDA are identified and disclosed by the applicant. This requirement applies to any clinical study submitted in a marketing application that the applicant or FDA relies on to establish that the

product is effective, and any study in which a single investigator makes a significant contribution to the demonstration of safety. Applicants are required to certify to the absences of certain financial interests of clinical investigators or to disclose those financial interests. If the applicant does not include certifications and/or disclosure or does not certify that it was not possible to obtain the information, the agency may refuse to file the application.

II. Discussion of Comments

The agency has received 12 comments on the draft guidance which published in the **Federal Register** of October 26, 1999 (64 FR 57640). Some commenters asked whether use of Forms FDA 3454 and 3455 is mandatory. One comment asked how much information should be submitted when incomplete financial information is known. There were numerous commenters who asked whether information could be submitted through a questionnaire instead of through internal systems. Some commenters requested clarification on what FDA meant by the definition of ''sponsor of the covered study.'' Comments were received on whether travel expenses for investigators should be tracked as significant payments of other sorts. Several commenters asked for clarification on FDA's definition of clinical investigator and subinvestigators. A few comments discussed the need to allow exemption for large scale efficacy studies from the covered clinical study definition. There were also comments requesting clarification on what FDA means by completion of the study and 1 year following completion of the study.

III. Status of the Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document represents the agency's current thinking on financial disclosure by clinical investigators. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

IV. Electronic Access

Persons interested in obtaining a copy of the guidance on the Internet may access the guidance at http://internet-dev.fda.gov/oc/guidance/finsumm.html or http://www.fda.gov/ohrms/dockets/default.htm.

V. Comments

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 20, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–7564 Filed 3–27–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–4020–N]

Medicare Program; Renewal of the Advisory Panel for Medicare Education (APME)

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

ACTION: Notice.

SUMMARY: This notice announces the renewal of the Advisory Panel on Medicare Education (the Panel or APME). The Panel advises the Secretary of the Department of Health and Human Services (the Secretary) and the Administrator of the Health Care Financing Administration (the Administrator) concerning optimal strategies for implementing a national Medicare education program; enhancing the Federal Government's effectiveness in informing the Medicare consumer; expanding outreach to vulnerable and under-served communities; and assembling an information base of ''best practices'' for helping consumers to evaluate health plan options and build a community infrastructure for information, counseling, and assistance. In accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, this notice announces the signing of the APME charter renewal by the Secretary on January 18, 2001. The charter will terminate on January 21, 2003, unless renewed by the Secretary.

FOR FURTHER INFORMATION CONTACT: Nancy Caliman, Partnership Development Group, Center for Beneficiary Services, HCFA, 7500 Security Boulevard, Mail Stop S2–23–05, Baltimore, MD 21244, (410) 786–5052, or E-mail ncaliman@hcfa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 17, 1999, we published a notice in the **Federal Register** (64 FR 7899) announcing the establishment of the Citizens Advisory Panel on Medicare Education. The Secretary signed the charter for the Citizens Advisory Panel on Medicare Education on January 21, 1999. The name of the committee was changed to the Advisory Panel on Medicare Education via an amended charter signed by the Secretary on July 24, 2000.

The Panel, chartered under section 1114(f) of the Social Security Act (42 U.S.C. section 1314(f)), is governed by the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix 2), that set forth standards for the formation and use of advisory committees.

The Panel consists of up to 20 members with expertise in senior citizen advocacy; outreach to minority communities; health communications; disease-related health advocacy; disability policy and access; health research; health insurers and plans; providers and clinicians; and matters of labor and retirement. There are currently 16 members on the Panel.

The Panel advises the Secretary and the Administrator concerning optimal strategies for—

- Developing and implementing a national Medicare education program that describes the options for selecting a health plan under Medicare;
- Enhancing the Federal Government's effectiveness in informing the Medicare consumer, including providing information about the appropriate use of public-private partnerships;
- Expanding outreach to vulnerable and under-served communities, including racial and ethnic minorities, in the context of a national Medicare education program; and,
- Assembling an information base of ''best practices'' for helping consumers to evaluate health plan options and build a community infrastructure for information, counseling and assistance.

II. Provisions of This Notice

This notice announces the signing of the APME charter renewal by the Secretary on January 18, 2001. The charter will terminate on January 21, 2003, unless renewed by appropriate action before its expiration date.

III. Copies of the Charter

You may obtain a copy of the charter for the APME by submitting a request to Nancy Caliman, Partnership Development Group, Center for Beneficiary Services, Health Care Financing Administration, 7500 Security Boulevard, Mail Stop S2–23–05, Baltimore, MD 21244, (410) 786–5052, or E-mail the request to *ncaliman@hcfa.gov*. A copy of the charter is also available on the Internet at *http://www.hcfa.gov/events/apme/homepage.htm*.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 14, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 01–7631 Filed 3–27–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4653–N–02]

Notice of Proposed Information Collection for Public Comment: HUD Urban Scholars Fellowship Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Public comments on the subject proposal are being solicited. An emergency paperwork number has been granted so that the program can make awards and operate in FY 2001.

DATES: *Comments Due Date:* May 29, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB control number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, Department of Housing and Urban Development, 451 7th Street, Washington, DC 20410; telephone (202) 708–1537 (this is not a toll-free number). Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Ms. Karadbil.

SUPPLEMENTARY INFORMATION: An emergency paperwork has been granted so that the program can make awards and operate in FY 2001. The Department will submit the proposed information collection to OMB for review for a regular paperwork clearance, as required by the Paperwork Reduction Action of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of information to be collected; and (4) Minimize the burden of collection of information on those who are to respond; including through the use of appropriate technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of the Proposal: HUD Urban Scholars Fellowships Program.

Description of the need for the information and proposed use: The information is being collected to enable the selection of fellows in this competitive fellowship program. The information is also being used to monitor the performance of applicants to ensure that they meet program goals and requirements.

Members of the affected public: Ph.D's with academic appointments at institutions of higher education: 100 applicants and 10 fellows.

Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response: Information pursuant to submitting applications will be submitted once. Information pursuant to fellows' monitoring requirements will be halfway through their fellowships and at the completion of the grant.

The following chart details the respondent burden on an annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application	100	100	32	3,200
8-month Reports	10	10	8	80
Final Report	10	10	4	40
Total				3,320

Status of proposed information collection: An emergency paperwork number has been granted. This is a new paperwork request for a regular paperwork number, pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 15, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–7574 Filed 3–27–01; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4649–M–13]

Notice of Proposed Information Collection: Comment Request, Economic Development Initiative and Brownfields Economic Development Initiative Grant Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 29, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sheila Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Bill Seedyke, Grants Manager, Office of Economic Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7158, Washington, DC 20410; telephone number: (202) 708–1686, ext. 4445 (this is not a toll-free number) for copies of the proposed forms and other available documents:

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Economic Development Initiative (EDI) and Brownfields Economic Development (BEDI) Grant Programs.

OMB Control Number, if applicable: 2506–0153.

Description of the need for the information and proposed use: Information collection is required to rate and rank applications submitted as part of a funding competition and to ensure funding eligibility of applicant activities.

Agency form numbers, if applicable: Form HUD–40076–EDI/BEDI (2/2000).

Members of affected public: Respondents are units of general local government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Expected number of respondents: 50 for each program; time needed to respond: 40 hours, per application, once a year, for a total of 2,000 hours for each program (EDI or BEDI), or 4,000 hours in all.

Status of the proposed information collection: Expired number of previously approved collection and forms.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 19, 2001.

Donna M. Abbenante,

Acting General Deputy Assistant Secretary.

[FR Doc. 01–7575 Filed 3–27–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4653–N–03]

Notice of Proposed Information Collection for Public Comment: HUD Mobility-Impaired Tenant Survey

AGENCY: Office of the Assistant Secretary Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 29, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB control number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: David E. Chase, Office of Research, Evaluation and Monitoring, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; telephone (202) 708–4230, extension 5733 (this is not a toll-free number). Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Mr. Chase.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency; (2) Evaluate the accuracy of the agency's estimated burden; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: HUD Mobility-Impaired Tenant Survey.

Description of the Need for the Information and Proposed Use: The survey will attempt to obtain information regarding mobility-impaired tenants' opinions about the reasonable accommodation process and the New York City Housing Authority's (NYCHA) effectiveness in communicating with mobility-impaired tenants about the reasonable accommodation process.

Members of Affected Public: Individuals or households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Frequency: Other: Once;

Number of Respondents: 385;

Total Annual Responses: 385;

Total Annual Hours: 130.

Respondent's Obligation: Voluntary.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 15, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–7576 Filed 3–27–01; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–06]

Announcement of Funding Awards for Fiscal Year 2000 Jobs-Plus Community Revitalization Initiative for Public Housing Families

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 210 of the VA–HUD Appropriations Act of 2000, this document notifies the public of funding provided to selected public housing authorities in the Jobs-Plus Community Revitalization Initiative for Public Housing Families of the Moving to Work Demonstration. The purpose of this document is to announce the names and addresses of the housing authorities and the amount of funds to be used to cover a portion of the cost of rent-based work incentives to families in selected public housing developments. Families in these selected developments shall be encouraged to go to work under work incentive plans approved by the Secretary and carefully tracked as part of the research and demonstration effort.

FOR FURTHER INFORMATION CONTACT: Garland E. Allen, Office of Research, Evaluation and Monitoring, Department of Housing and Urban Development, Room 8140, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3700, extension 5710. 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 1–800–877–8339, or (202) 708–1455. (Telephone numbers, other than ''800'' TTY number are not toll free.)

SUPPLEMENTARY INFORMATION: The Jobs-Plus Community Revitalization Initiative for Public Housing Families of the Moving to Work Demonstration was enacted in Section 204(a) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 and is administered by the Office of Research, Evaluation and Monitoring under the Assistant Secretary for Policy Development and Research. The Office of Research, Evaluation and Monitoring is also responsible for monitoring and evaluating the Jobs-Plus Initiative.

The Jobs-Plus Initiative is an innovative research program that is designed to substantially increase employment rates and earnings of residents in six experimental housing developments to become steadily employed using three main program components: (1) Employment related activities and services, including pre- and post-employment activities such as job search, education, training, job development, and case management, and support services such as child care and transportation assistance; (2) enhanced financial incentives to work, notably, reducing, the amount by which rent increases when earnings grow; and (3) a ''community support for work'' component, such as fostering work-related information sharing, peer support, and mutual aid among residents and with people living outside public housing. As part of the designed of Jobs-Plus, the Department agreed to provide funding to housing authorities selected for the Jobs-Plus Initiative to encourage them to create and implement innovative financial strategies to encourage residents to obtain and retain employment. The funding awarded in this notice is to cover the loss income that the housing authorities will not collect from residents as the direct result of their financial incentives for residents. During Fiscal Year 1999, the six housing authorities created financial incentives plans and HUD approved them for funding through December 31, 2003. The amount of funding provided to the housing authorities was based on each authority's estimated loss revenue as a result of the provision of incentives to residents. The amount of funding to cover the cost of financial incentives was estimated to be $12 million and $5 million of the $12 million was provided under the VA–HUD Appropriations Act of 2000. Hence, partial funding to cover the cost of the incentives are identified below.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 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 FY 2000; Jobs-Plus Community Revitalization Initiative for Public Housing Families in the Moving to Work Demonstration, by Name and Address

1. Housing Authority of Baltimore City, 417 E. Fayette Street, Baltimore, MD 21202. Grant: $500,000.
2. Chattanooga Housing Authority, 505 W. Martin Luther King Boulevard, Chattanooga, TN 37406. Grant: $900,000.
3. Dayton Metropolitan Housing Authority, 400 Wayne Avenue, Dayton, OH 45410. Grant: $900,000.
4. Housing Authority of the City of Los Angeles, 2600 Wilshire Boulevard, Los Angeles, CA 90057. Grant: $900,000.
5. St. Paul Housing Authority, 480 Cedar Street, St. Paul, MN 55101. Grant: $900,000.
6. Seattle Housing Authority, 120 Sixth Avenue North, Seattle, WA 98109. Grant: $900,000.

Dated: March 20, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–7573 Filed 3–27–01; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*).

Permit No. TE–036501

Applicant: U.S. Geological Survey, Piedras Blancas Field Station, San Simeon, California

The applicant requests a permit to take (capture, handle, tag, attach radio transmitters, and release) the giant kangaroo rat (*Dipodomys ingens*) throughout the species' range in conjunction with scientific research for the purpose of enhancing its survival. These activities were previously authorized under subpermit No. BRDPBS–2.

Permit No. TE–039161

Applicant: Lara Tikkanen Reising, San Diego, California

The applicant requests a permit to take (harass by survey, collect and sacrifice) the San Diego fairy shrimp (*Branchinecta sandiegonensis*) and the Riverside fairy shrimp (*Streptocephalus wootoni*), and take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the species' range in California for the purpose of enhancing their survival.

Permit No. TE–039305

Applicant: Michael Klein, Sr., San Diego, California

The applicant requests a permit to take (survey by pursuit) the Laguna Mountain skipper (*Pyrgus ruralis lagunae*) in conjunction with surveys throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–039282

Applicant: Richard B. Lewis, Costa Mesa, California

The applicant requests a permit to take (harass by survey and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys in Los Angeles, Orange, San Bernardino, Riverside, San Diego, and Ventura, California for the purpose of enhancing its survival.

Permit No. TE–027295

Applicant: Ecosphere Environmental Services, Durango, Colorado

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys throughout the state of California for the purpose of enhancing its survival.

Permit No. TE–039463

Applicant: John Gallo, Goleta, California

The applicant requests a permit to take (harass by survey and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and population monitoring in Santa Barbara and Ventura Counties, California for the purpose of enhancing its survival.

Permit No. TE–039201; TE–802457; TE–039289; TE–039300

Applicants: Pamela Marie Wright, Topanga, California; Donald Sutton, Encinitas, California; Kari Roesch, Carlsbad, California; Michael Ferrell, Carlsbad, California

These applicants request a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–039800

Applicant: Kathy S. Williams, San Diego, California

The applicant requests a permit to take (survey by pursuit) the Laguna Mountains Skipper (*Pyrgus ruralis lagunae*) in conjunction with surveys throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–039460

Applicant: Thomas Olsen, Lompac, California

The applicant requests a permit to take (capture and handle; collect tissue samples) the California tiger salamander (*Ambystoma californiense*) in conjunction with presence or absence surveys and genetic research in Santa Barbara County, California for the purpose of enhancing its survival.

Permit No. TE–039313

Applicant: Theodore Kennedy, Saint Paul, Minnesota

The applicant requests a permit to take (capture, handle, mark, and release) the Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*) and Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mioectes*) in conjunction with scientific research at the Ash Meadows National Wildlife Refuge in Nye County, Nevada for the purpose of enhancing their survival.

Permit No. TE–018172

Applicant: Allan A. Schoenherr, Fullerton, California

The applicant requests a permit to take (capture, handle, and release) the desert pupfish (*Cyprinodon macularius*) in conjunction with presence and absence surveys in Imperial and Riverside Counties, California for the purpose of enhancing its survival. These activities were previously authorized under subpermit SCHOAA–5.

Permit No. TE–026654

Applicant: The Nature Conservancy, Klamath Falls, Oregon

The applicant requests a permit to take (capture, handle, and release; collect larvae) the Lost River sucker (*Deltistes luxatus*) and the shortnose sucker (*Chasmistes brevirostrum*) in conjunction with the collection of fish distribution and condition information to gauge the success of restoration efforts in Klamath County, Oregon for the purpose of enhancing their survival.

Permit No. TE–039877

Applicant: Chris Hayes, Concord, California

The applicant requests a permit to purchase, in interstate commerce, one female and one male captive bred Hawaiian (=nene) goose (*Nesochen* [=*Branta*] *sandvicensis*) for the purpose of enhancing the species propagation and survival. This notification covers activities conducted by the applicant over the next 5 years.

DATES: Written comments on these permit applications must be received on or before April 27, 2001.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: March 14, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 01–7605 Filed 3–27–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species

Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE–039466

Applicant: USGS-BRD Arizona Cooperative Fish and Wildlife Research Unit, Tucson, Arizona.

Applicant requests a permit to conduct surveys for the Yuma clapper rail *(Rallus longirostris yumanensis)* and to study the effects of prescribed fire on this species within Yuma County, Arizona.

Permit No. TE–039467

Applicant: USGS-BRD Arizona Cooperative Fish and Wildlife Research Unit, Tucson, Arizona.

Applicant requests permit for authorization to take Gila topminnows *(Poeciliopsis occidentalis)* during sampling activities for Gila chub *(Gila intermedia)*, which is not a federally-listed species. These activities will take place in Arizona.

Permit No. TE–039468

Applicant: Cecelia Smith, Tucson, Arizona.

Applicant requests a permit to conduct presence/absence surveys for the cactus ferruginous pygmy-owl *(Glaucidium brasilianum cactorum)*, in Arizona.

Permit No. TE–039469

Applicant: Pima County Parks and Recreation, Tucson, Arizona.

Applicant requests a permit to conduct presence/absence surveys for the cactus ferruginous pygmy-owl *(Glaucidium brasilianum cactorum)*, in Arizona.

Permit No. TE–039544

Applicant: Dr. Michael R.J. Forstner, San Marcos, Texas.

Applicant requests a permit to authorize research involving capture and release of the Houston toad *(Bufo houstonensis)* and Concho water snake *(Nerodia harteri paucimaculata)* in Texas.

Permit No. TE–798998

Applicant: Horizon Environmental Services, Austin, Texas.

Applicant requests a renewal of an expired permit to conduct presence/absence surveys for the following species: golden-cheeked warbler *(Dendroica chrysoparis),* black-capped vireo *(Vireo atricapillus),* interior least tern *(Sterna antillarum athalassos),* Houston toad *(Bufo houstonensis),* Tooth Cave spider *(Neoleptoneta myopica),* Bee Creek Cave harvestman *(Texella reddelli),* Bone Cave harvestman *(Texella reyesi),* Tooth Cave ground beetle *(Rhadine persephone),* Kretschmarr Cave mold beetle *(Texamaurops reddelli),* Coffin Cave mold beetle *(Batrisodes texanus),* Tooth Cave pseudoscorpion *(Tartarocreagris texana),* Helotes mould beetle *(Batrisodes venyivi),* Robber Baron Cave harvestman *(Texella cokendolpheri),* Robber Baron Cave spider *(Cicurina baronia),* Madla's cave spider *(Cicurina madla),* vesper cave spider *(Cincurina vespera),* Government Canyon cave spider *(Neoleptoneta microps),* as well as another cave spider *(Cicurina venii)* and two cave beetles *(Rhadine exilis and Rhadine infernalis)* that do not have common names. Authorization to conduct nest monitoring for interior least terns and tadpole collection of Houston toads is also requested.

Permit No. TE–039527

Applicant: Barbara French, Austin, Texas.

Applicant requests a permit to authorize rehabilitative care for injured bats. These bat species could include the following: gray bat (Myotis grisescens), Indiana bat *(Myostis sodalis),* Hawaiian hoary bat *(Lasiurus cinereus semotus),* Virginia big-eared bat *(Corynorhinus townsendii virginianus),* Ozark big-eared bat *(Corynorhinus townsendii ingens),* lesser long-nosed bat *(Leptonycteris curasoae),* and Mexican long-nosed bat *(Leptonycteris nivalis).*

Permit No. TE–026436

Applicant: George Veni and Associates, San Antonio, Texas.

Applicant requests a permit to survey for and collect the following Bexar County karst invertebrate species: Helotes mould beetle *(Batrisodes venyivi),* Robber Baron Cave harvestman *(Texella cokendolpheri),* Robber Baron Cave spider *(Cicurina baronia),* Madla's cave spider *(Cicurina madla),* vesper cave spider *(Cincurina vespera),* Government Canyon cave spider *(Neoleptoneta microps),* as well as another cave spider *(Cicurina venii)* and two cave beetles *(Rhadine exilis* and *Rhadine infernalis)* that do not have common names. This work will be conducted in Travis and Williamson Counties.

Permit No. TE–039571

Applicant: Garcia and Associates, San Anselmo, California.

Applicant requests a permit to conduct presence/absence surveys, nest monitoring, and banding (including color banding) for the southwestern willow flycatcher *(Empidonax traillii extimus)* in Arizona.

Permit No. TE–039716

Applicant: Arizona State University, Tempe, Arizona.

Applicant requests permit to capture and release for scientific research and recovery purposes the following fish species: humpback chub *(Gila cypha),* bonytail chub *(Gila elegans),* Virgin River chub *(Gila robusta seminuda),* woundfin *(Pladopterus argentissimus),* Colorado pikeminnow *(Ptychocheilus lucius),* razorback sucker *(Xyrauchen texanus),* Yaqui topminnow *(Poeciliopsis occidentalis sonorensis),* Gila topminnow *(Poeciliopsis occidentalis),* desert pupfish *(Cyprinodon macularius)*, and Quitobaquito pupfish *(Cyprinodon macularius eremus).*

Permit No. TE–039731

Applicant: Environmental Defense, Austin, Texas.

Applicant requests a permit to conduct presence/absence surveys for the golden-cheeked warbler *(Dendroica chrysoparis)* and black-capped vireo *(Vireo atricapillus)* in Texas.

DATES: Written comments on these permit applications must be received on or before April 27, 2001.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Joy E. Nicholopoulos,

Acting Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–7606 Filed 3–27–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Applicant: Parker Creek Ranch, San Antonio, TX, PRT–802636

The applicant requests renewal of a permit to authorize interstate and foreign commerce, export and cull of excess male barasingha (*Cervus duvauceli*), red lechwe (*Kobus leche*), and Eld's brow-antlered deer (*Cervus eldi*) from his captive herd for the purpose of enhancement of the survival of the species. This notice shall cover activities under this permit for a period of five years. Permittee must apply for renewal annually.

Applicant: John C. McEwen, Nazareth, PA, PRT–040055

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Hornocker Wildlife Research Institute, Bozeman, MT, PRT–808113

The applicant requests a permit to import biological samples from live Amur leopard (*Panthera pardus orientalis*) and Siberian tiger (*Panthera tigris altaica*), and salvaged biological samples as available from carcasses of the same species, collected in the wild in Russia for the purpose of enhancement of the species through scientific research. This notification covers activities conducted by the applicant over a five year period.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 16, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–7608 Filed 3–27–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Wildcat Line Single-Family Residence Project, Monterey County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: Wildcat Line (Applicant), a California limited partnership, has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Service proposes to issue a 10-year permit that would authorize take of the endangered Smith's blue butterfly *(Euphilotes enoptes smithi)* incidental to otherwise lawful activities. Such take would occur as a result of development of one single-family residence within an 11.46-acre parcel owned by the Applicant and located in Carmel Highlands, in Monterey County, California. Development would result in the loss of 0.8 acre of coastal sage scrub habitat, which supports an estimated 4,923 individuals of seacliff buckwheat *(Eriogonum parvifolium),* a host plant for the Smith's blue butterfly.

We request comments from the public on the permit application, which is available for review. The application includes a Habitat Conservation Plan (Plan). The Plan describes the proposed project and the measures that the Applicant would undertake to minimize and mitigate take of the Smith's blue butterfly.

We also request comments on our preliminary determination that the Plan qualifies as a ''low-effect'' habitat conservation plan, eligible for a categorical exclusion under the National Environmental Policy Act. The basis for this determination is discussed in an Environmental Action Statement, which is also available for public review.

DATES: Written comments should be received on or before April 27, 2001.

ADDRESSES: Send written comments to Ms. Diane Noda, Field Supervisor, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Comments may be sent by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Pratt, Fish and Wildlife Biologist, at the above address or call (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Document Availability

Please contact the above office if you would like copies of the application, Plan, and Environmental Action Statement. Documents also will be available for review by appointment, during normal business hours at the above address.

Background

Section 9 of the Endangered Species Act and Federal regulation prohibit the ''take'' of fish or wildlife species listed as endangered or threatened, respectively. Take of listed fish or wildlife is defined under the Act to include kill, harm, or harass. The Service may, under limited circumstances, issue permits to authorize incidental take; i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The Wildcat Line Single-Family Residence project area is located east of Highway 1, southeast of Yankee Point, and north of Malpaso Creek in Carmel Highlands, Monterey County. The Applicant is requesting a 10-year incidental take permit for the Smith's blue butterfly.

The proposed project is development of a single-family residence on an 11.46-acre parcel. The Applicant proposes to grade the upper portions of the finger ridge to provide an area suitable for construction of one single-family residence. Other improvements to the site include an all-weather driveway, a picnic area, a new water tank and access

road, a septic leach field, drainage and erosion control improvements, a footpath, and landscaping. The project parcel was formerly part of a 466-acre parcel, of which 439 acres have been designated for watershed and scenic conservation due to policies of the Carmel Area Land Use Plan, topography too steep to build on, and the efforts of Mr. Dan Keig. This area is zoned ''WSC/199'', or one residential lot per 199-acre lot. Approximately 7.8 acres, or 68 percent, of the 11.46-acre parcel consist of slopes that are equal to or greater than 30 percent and are therefore protected from development under a scenic easement held by Monterey County, pursuant to section 20.146.120.A.6 of the Coastal Implementation Plan.

The project would disturb a 1.56-acre area (impact area), of which 0.8 acre is coastal sage scrub dominated by seacliff buckwheat, a larval and adult host plant of the Smith's blue butterfly, federally listed as endangered under the Act. The Applicant has submitted a Plan to minimize and mitigate for the removal of approximately 4,923 individual plants of seacliff buckwheat, considered suitable habitat for the Smith's blue butterfly, which grow within the impact area. The project site does not contain any other threatened or endangered species or habitat. No critical habitat for any listed species occurs on the project site. Approximately 2.93 acres (26 percent) of the 11.46-acre parcel is characterized by Monterey pine (Pinus radiata), which is included on the California Native Plant Society List 1B as a species that is rare, threatened or endangered in California and elsewhere. Lewis' clarkia *(Clarkia lewisii),* a Calfornia Native Plant Society List 4 plant (species with limited distribution), grows at the project site in association with the coastal sage scrub plant community.

Under the Plan, the 0.8 acre of coastal sage scrub habitat dominated by seacliff buckwheat and affected by the proposed project would be replaced with 0.97 acre of restored coastal sage scrub habitat elsewhere on the project site. To mitigate the effects of take on the Smith's blue butterfly, the impacted seacliff buckwheat plants providing foraging habitat would be replaced at a 1:1 ratio and established in the restored and existing coastal sage scrub habitat at the project site. In addition, approximately 9.86 acres of the 11.46-acre site, of which approximately 7.19 acres is coastal sage scrub habitat, would be protected in perpetuity through placement of a deed restriction and establishment of an endowment for long term management.

The Service's Proposed Action consists of the issuance of an incidental take permit and implementation of the Plan, which includes measures to minimize and mitigate impacts of the project on the Smith's blue butterfly. Two alternatives to the taking of listed species under the Proposed Action are considered in the Plan. Under the No Action Alternative, no permit would be issued. However, this alternative would result in an economic burden to the Applicant and conservation measures for the Smith's blue butterfly, such as exotic weed eradication, would not be implemented. Another alternative would result in a redesigned project with the relocation of the development footprint to another portion of the parcel. However, much of the property is too steep to be developed, and relocation of the footprint to the western portion of the property would result in the removal of an undetermined number of Monterey pine trees. The Service considers the proposed development footprint as more desirable than development elsewhere on the property because the potential reduction of take of Smith's blue butterflies and reduction of modification of their habitat would not be significant.

The Service has made a preliminary determination that the Plan qualifies as a ''low-effect'' plan as defined by its Habitat Conservation Planning Handbook (November 1996). Our determination that a habitat conservation plan qualifies as a low-effect plan is based on the following three criteria: (1) Implementation of the plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects would not result, over time, in cumulative effects to environmental values or resources which would be considered significant. As more fully explained in our Environmental Action Statement, the Applicant's Plan for the Wildcat Line Single-Family Residence Project qualifies as a ''low-effect'' plan for the following reasons:

1. Approval of the Plan would result in minor or negligible effects on the Smith's blue butterfly and its habitat. The Service does not anticipate significant direct or cumulative effects to the Smith's blue butterfly resulting from development of the Wildcat Line Single-Family Residence Project.

2. Approval of the Plan would not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the Plan would not result in any cumulative or growth inducing impacts and, therefore, would not result in significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.

The Service therefore has made a preliminary determination that approval of the Plan qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Based upon this preliminary determination, we do not intend to prepare further National Environmental Policy Act documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

The Service provides this notice pursuant to section 10(c) of the Endangered Species Act. We will evaluate the permit application, the Plan, and comments submitted thereon to determine whether the application meets the requirements of section 10 (a) of the Act. If the requirements are met, the Service will issue a permit for the incidental take of the Smith's blue butterfly from development of the Wildcat Line Single-Family Residence Project area. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: March 13, 2001.

Miel R. Corbett,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 01–7607 Filed 3–27–01; 8:45 am]

BILLING CODE 4130–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–01–1020–PE: GP1–010138]

Notice of meeting of John Day/Snake Resource Advisory Council

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Meeting of John Day/Snake Resource Advisory Council (RAC): La Grande, Oregon May 8–9, 2001.

SUMMARY: On May 8, 2001 at 11:00 a.m. there will be a meeting of the John Day/Snake RAC at Mr. Sandman Motel, 2410 E. R Avenue, La Grande, Oregon. The meeting is open to the public. Public comments will be received at 1:00 p.m. on May 8, 2001. The following topics will be discussed by the council: Program of work review; Charter review; Counties Payment Act (1608 Act); Hells Canyon Subgroup update; RAC membership update; Blue Mountain Subgroup update; ICBEMP Subgroup update; OHV Subgroup update; Noxious Weeds Subgroup update; Field trip to Blue Mountain Demo Area; A 15 minute round table for general issues.

FOR FURTHER INFORMATION CONTACT: Roy L. Masinton, Bureau of Land Management, Vale District Office, 100 Oregon Street, Vale, Oregon 97918, Telephone (541) 473–3144

Roy L. Masinton,

Acting District Manager.

[FR Doc. 01–7600 Filed 3–27–01; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–320–1820–XQ]

Resource Advisory Council meeting

AGENCY: Bureau of Land Management, Northwest California Resource Advisory Council, Fortuna, California.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Pub. L. 94–579), the U. S. Bureau of Land Management's Northwest California Resource Advisory Council will meet Wednesday and Thursday, April 18 and 19, 2001, in Fortuna, California, for a field tour and business meeting. The meeting and tour are open to the public, but anyone attending must provide their own transportation and lunch.

SUPPLEMENTARY INFORMATION: On Wednesday, April 18, the council members will convene at 10 a.m. at the Best Western Country Inn, 2025 River Walk Drive, Fortuna, and depart immediately for a tour of lands included in the proposed Lost Coast Headlands Project. On Wednesday, the council will convene at 8 a.m. in the Coho Room of the River Lodge Conference Center, 1800 River Walk Drive, Fortuna. Agenda items include a discussion of the land use planning status for the BLM's Arcata, Redding and Ukiah field offices, and program status reports from the field offices. Time will be set aside for public comments. Depending on the number of persons wishing to speak, a time limit may be established.

FOR FURTHER INFORMATION CONTACT: Contact Lynda J. Roush, BLM Arcata Field Manager, at (707) 825–2300.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 01–7601 Filed 3–27–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–020–1430–ES, NMNM 99153, NMNM 80711]

Notice or Realty Action; Recreation and Public Purposes (R&PP) Act Classification; New Mexico

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The following public lands in Rio Arriba County, New Mexico have been examined and found suitable for classification for lease or conveyance to The American Legion Griego y Tafoya Post 62 and the Spanish Seventh Day Adventist Church, both non-profit organizations, under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The American Legion Post 62 proposes to use the lands for a placement of a facility for the purpose of a meeting location and the Spanish Seventh Day Adventist Church proposes to use the lands for a cemetery site.

American Legion Griego y Tafoya Post 62

New Mexico Principal Meridian

T. 23 N., R. 10 E.,
Sec. 28, lot 140.

Containing approximately 0.38 acres.

Spanish Seventh Day Adventist Church

New Mexico Principal Meridian

T. 23 N., R. 10 E.,
Sec. 34: lot 4.

Containing approximately 0.59 acres.

The lands are not needed for Federal Purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest.

The lease/conveyance, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights for a cable transmission system granted to Mark Twain Cablevision Limited Partnership by Permit No. NM–65192 (American Legion lot).

5. Those rights for domestic water system granted to Dixon Mutual Domestic Water Consumers Association by Permit No. NM–51413 (American Legion lot).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Taos Resource Area, 226 Cruz Alta, Taos, NM 87571.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Field Office Manager, BLM Taos Office, 226 Cruz Alta Road, Taos, New Mexico 87571.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a meeting facility for the American Legion Griego y Tafoya Post 62 or the Spanish Seventh Day Adventist Church cemetery site. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for the proposed use.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: March 16, 2001.

Ron Huntsinger,

Field Office Manager.

[FR Doc. 01–7602 Filed 3–27–01; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF JUSTICE

Civil Division

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Notice of Information Collection Under Review; Extension of a currently approved form SF 95, Claim for Damage, Injury, or Death.

The Department of Justice, Civil Division, Torts Branch, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 29, 2001.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jeffrey Axelrad, 202–616–4400, Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, D.C. 20044.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Extension of a currently approved collection

(2) *The title of the form/collection:* Claim for Damage, Injury, or Death

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* SF95, Civil Division, United States Department of Justice,

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households. Other: Business or other for-profit; not-for-profit institutions; and State, Local or Tribal Government.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/rely:* It is estimated that 300,000 respondents will complete this form. A respondent will take an estimate of 6 hours to complete each form.

(6) An estimate of the total public burden (in hours) associated with the collection: It is estimated that the total public burden associated with this collection is 1.8 million annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place, 1331 Pennsylvania Avenue, NW, Washington, DC 20530.

Dated: March 22, 2001.

Robert B. Briggs,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 01–7620 Filed 3–27–01; 8:45 am]

BILLING CODE 4410–12–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Proposed Collection: Comment Request

National Endowment for the Arts

ACTION: Notice.

SUMMARY: The National Endowment for the Arts, 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)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collected instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the National Endowment for the Arts, on behalf of the Federal Council on the Arts and the Humanities, is soliciting comments concerning renewal of the Application for Indemnification. A copy of this collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below on or before June 4, 2001. The National Endowment for the Arts its 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting the electronic submissions of responses.

ADDRESSES: Alice Whelihan, National Endowment for the Arts, 1100

Pennsylvania Avenue, NW., Room 726, Washington, DC 20506–0001, telephone (202) 682–5574 (this is not a toll-free number), fax (202) 682–5603.

Murray Welsh,

Director, Administrator Services.

[FR Doc. 01–7584 Filed 3–27–01; 8:45 am]

BILLING CODE 7536–01–M

THE NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* April 2, 2001.

Time: 9 a.m. to 5:30 p.m.

Room: 426.

Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs at the February 1, 2001 deadline.

2. *Date:* April 3, 2001.

Time: 9 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 2001 deadline.

3. *Date:* April 5, 2001.

Time: 9 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 2001 deadline.

4. *Date:* April 9, 2001.

Time: 9 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 2001 deadline.

5. *Date:* April 23, 2001.

Time: 9 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications for Summer Seminars and Institutes for School Teachers, submitted to the Division of Education at the March 1, 2001 deadline.

6. *Date:* April 24, 2001.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers, submittted to the Division of Education at the March 1, 2001 deadline.

7. *Date:* April 30, 2001.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Summer Seminars and Institutes for School Teachers, submitted to the Division of Education at the March 1, 2001 deadline.

Laura S. Nelson,

Advisory Committee Management Officer.

[FR Doc. 01–7647 Filed 3–27–01; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket 70–7001]

Notice of Issuance of Certification Amendment to the Certificate of Compliance GDP–1 for the U.S. Enrichment Corporation Paducah Gaseous Diffusion Plant Paducah, KY

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued an amendment to the Certificate of Compliance for the United States Enrichment Corporation's Paducah, Kentucky, facility. The amendment increases the assay limit for the facility from the current 2.75 wt% ^{235}U up to 5.5 wt% ^{235}U. The NRC issued a **Federal Register** Notice (65 FRN 70368) dated November 22, 2000, noticing receipt of USEC's amendment request, dated October 20, 2000. The FRN also requested comments during a 30-day public comment period. One set of public comments was received on December 22, 2000, and was considered when reviewing the amendment request.

The initial licensing review was completed and a preliminary Compliance Evaluation Report was issued on February 16, 2001. An operational readiness review was then performed at the facility from February 20 through March 2, 2001. The remaining licensing review was then completed and the amendment was issued on March 19, 2001.

In addition, there is a public meeting scheduled for Wednesday, March 28, 2001, to discuss this amendment. The meeting will be held at the Paducah Community College, Rosenthal Hall #111 (Engineering Building) from 7–9 pm. For more information concerning the meeting, contact Heather Astwood on 301–415–5819.

For further details with respect to this action, see the application for amendment, and the Compliance Evaluation Report written in support of issuing the amendment. These documents are available for public inspection at the Commission's Public Document Room, NRC's Headquarters Building, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 and electronically from the Publicly Available Records System (PARS) component of NRC's document management system (ADAMS) which is accessible from the NRC Web Site at: *http://www.nrc.gov/NRC/ADAMS/index.html.*

Brief description of amendment: The U.S. Enrichment Corporation requested that the assay limit for the Paducah

facility be increased from the current 2.75 wt% ^{235}U up to 5.5 wt% ^{235}U. The proposed amendment is approved and allows the Paducah facility to withdraw from the cascade and ship 5.0 wt% enriched uranium hexafluoride (UF_6).

Certificate of Compliance No. GDP–1: The amendment will be revision number 55 to the certificate and is allowing the facility to produce the higher enrichment. This amendment also finalizes changes to the Technical Safety Requirements.

Dated at Rockville, Maryland, this 19th day of March 2001.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Acting Chief, Special Projects Branch, Division of Fuel Cycle Safety and Safeguards Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–7614 Filed 3–27–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 155, OMB Control No. 3235–0549, SEC File No. 270–492.

Rule 477, OMB Control No. 3235–0550, SEC File No. 270–493.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 155 under the Securities Act provides safe harbors for a registered offering following an abandoned private offering, or a private offering following an abandoned registered offering, without integrating the registered and private offering in either case. Rule 155 requires any prospectus filed as a part of a registration statement after a private offering to include disclosure regarding abandonment of the private offering. Similarly, the rule requires an issuer to provide each offeree in a private offering following an abandoned registered offering with: (1) Information concerning withdrawal of the registration statement; (2) the fact that the private offering is unregistered; and (3) the legal implications of the offering's unregistered status. The likely respondents will be companies. It is estimated that 600 issuers will file Rule 155 submissions annually at an estimated 4 hours per response. Also, it is estimated that 50% of the 2,400 total annual burden hours (1,200 burden hours) would be prepared by the company. We estimate that the company's outside counsel would prepare the other 1,200 burden hours.

Rule 477 under the Securities Act sets forth procedures for withdrawing a registration statement or any amendment or exhibits thereto. The rule provides that if a registrant applies in anticipation of reliance on Rule 155's registered-to-private safe harbor, the registrant must state in the withdrawal application that the registrant plans to undertake a subsequent private offering in reliance on the rule. Without this statement, the Commission would not be able to monitor issuers' reliance on and compliance with Rule 155(c). The likely respondents will be companies. It is estimated that 300 issuers will file Rule 477 submissions annually at an estimated one-hour per response for a total annual burden of 300 hours.

Written 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 will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: March 21, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7594 Filed 3–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release 34–44089; File No. 600–22]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Order Approving a Request for an Extension of Temporary Registration as a Clearing Agency

March 21, 2001.

Notice is hereby given that on February 23, 2001, MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') an application pursuant to Section 19(a) of the Securities Exchange Act of 1934 (''Act'') [1] requesting that the Commission grant MBSCC full registration as a clearing agency or in the alternative extend MBSCC's temporary registration as a clearing agency until such time as the Commission is able to grant MBSCC permanent registration.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to extend MBSCC's temporary registration as a clearing agency through September 30, 2001.

On February 2, 1987, pursuant to Sections 17A(b) and 19(a) of the Act [3] and Rule 17Ab2–1 promulgated thereunder,[4] the Commission granted MBSCC registration as a clearing agency on a temporary basis for a period of eighteen months.[5] The Commission subsequently has extended MBSCC's registration through March 31, 2001.[6]

In the most recent extension of MBSCC's temporary registration, the Commission stated that it planned in the near future to seek comment on granting MBSCC permanent registration as a clearing agency. The extension of MBSCC's temporary registration will enable the Commission to do so within the next few months.

Interested persons are invited to submit written data, views, and

[1] 15 U.S.C. 78s(a).

[2] Letter from Anthony Davidson, Managing Director and General Counsel, MBSCC (February 20, 2001).

[3] 15 U.S.C. 78q–1(b) and 78s(a).

[4] 17 CFR 240.17Ab2–1.

[5] Securities Exchange Act Release No. 24046. (February 2, 1987), 52 FR 4218.

[6] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; 37372 (June 26, 1996), 61 FR 35281; 38784 (June 27, 1997), 62 FR 36587; 39776 (March 20, 1998), 63 FR 14740; 41211 (March 24, 1999), 64 FR 15854; and 42568 (March 23, 2000), 65 FR 16980.

arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should in accordance with Section 19(a)(1) of the Act.[7] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the amended application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. All submissions should refer to File No. 600–22 and should be submitted by April 18, 2001.

It is therefore ordered that MBSCC's temporary registration as a clearing agency (File No. 600–22) be and hereby is extended through September 30, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7596 Filed 3–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44090; File No. SR–CHX–01–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, To Amend the Exchange's SuperMAX 2000 Price Improvement Program To Include Odd Lot Orders

March 21, 2001.

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 March 19, 2001, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the CHX rules governing its voluntary price improvement program. Specifically, the Exchange proposes to amend Article XX, Rule 37(h) to permit application of the Exchange's SuperMAX 2000 price improvement algorithm to odd lot orders, thereby increasing the opportunities for price improvement. The text of the proposed rule change is below. Additions are in italics.

Article XX

Regular Trading Sessions

* * * * *

Guaranteed Execution System and Midwest Automated Execution System

Rule 37

* * * * *

(h) SuperMAX 2000

SuperMAX 2000 shall be a voluntary automatic execution program within the MAX System. SuperMAX 2000 shall be available for any security trading on the Exchange in decimal price increments. A specialist may choose to enable this voluntary program within the MAX System on a security-by-security basis.

(1) Pricing

(i) In the event that an order to buy or sell at least 100 shares is received in a security in which SuperMAX 2000 has been enabled, such order shall be executed at the ITS Best Offer or NBO (for a buy order) or the ITS Best Bid or NBB (for a sell order) if the spread between the ITS Best Bid and the ITS Best Offer (or NBB and NBO, for Nasdaq/NM issues) in such security at the time the order is received is less than $.03.

(ii) In the event that an order to buy or sell 100 shares is received in a security in which SuperMAX 2000 has been enabled, and the spread between the ITS Best Bid and the ITS Best Offer (or NBB and NBO, for Nasdaq/NM issues) in such security at the time the order is received is $.03 or greater, such order shall be executed (subject to the short sale rule) at a price at least $.01 lower than the ITS Best Offer or NBO (for a buy order) or at least $.01 higher than the ITS Best Bid or NBB (for a sell order).

(iii) In the event that an order to buy or sell more than 100 shares is received in a security in which SuperMAX 2000 has been enabled, such order shall be executed at the ITS Best Offer or NBO, or better (for a buy order) or the ITS Best Bid or NBB, or better (for a sell order) as the specialist may designate and is approved by the Exchange.

(iv) Odd Lot Market Orders. In the event that a market order to buy or sell less than 100 shares (or a market order otherwise deemed an odd lot by the Exchange) is received in a security in which SuperMAX 2000 has been enabled, and the spread between the ITS Best Bid and the ITS Best Offer (or NBB and NBO, for Nasdaq/NM issues) in such security at the time the order is received is (A) less than $.05, such order shall be executed at the ITS Best Offer or NBO (for a buy order) or the ITS Best Bid or NBB (for a sell order); or (B) $.05 or greater, such order shall be executed at a price at least $.01 lower than the ITS Best Offer or NBO (for a buy order) or at least $.01 higher than the ITS Best Bid or NBB (for a sell order).

(2) Operating Time. SuperMAX 2000 will operate each day that the Exchange is open for trading from the commencement of the Primary Trading Session until the close of the Primary Trading Session; provided, however, that preopening orders shall not be eligible for SuperMAX 2000 price improvement. A specialist may enable or remove SuperMAX 2000 for a particular security only on one given day each month, as determined by the Exchange from time to time. Notwithstanding the previous sentence, during unusual market conditions, individual securities or all securities may be removed from SuperMAX 2000 with approval of two members of the Committee on Floor Procedure.

(3) Timing. Orders entered into SuperMAX 2000 shall be immediately executed upon completion of the foregoing price improvement algorithm without delay (i.e., in 0 seconds).

(4) Applicability to Odd Lots *Generated by OLES.* Although an order generated by the Odd-Lot Execution Service (''OLES'') is a professional order (because it is deemed to be for the account of a broker-dealer), it is nonetheless eligible for SuperMAX 2000 execution if (i) the order is for 100 to 199 shares and (ii) the order is an OLES passively-driven system-generated market order (and not an actively managed order).

(5) Out of Range. Notwithstanding anything herein to the contrary, SuperMAX 2000 will not automatically execute an order if such execution would result in an out of range execution.

(6) Other. Any eligible order in a security for which SuperMAX 2000 has been enabled which is manually presented at the post by a floor broker must also be guaranteed an execution by the specialist pursuant to the pricing

[7] 15 U.S.C. 78s(a)(1).

[8] 17 CFR 200.30–3 (a)(16).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

criteria set forth in paragraph (1) above. If the contra side order which would better a SuperMAX 2000 execution is presented at the post, the incoming order which is executed pursuant to the SuperMAX 2000 criteria must be adjusted to the better price.

* * * * *

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

According to the CHX, the primary purpose of the proposed rule change is to increase the number of orders that are eligible for automated price improvement. To this end, the CHX proposes to amend the CHX rules governing its voluntary automated price improvement program, known as SuperMAX 2000, for issues quoting in decimal price increments. Specifically, the Exchange proposes to amend Article XX, Rule 37(h) to permit application of the SuperMAX 2000 algorithm to odd lot orders, thereby increasing the opportunities for price improvement.

On December 19, 2000, the Commission approved (SR–CHX–00–37),[3] implementing SuperMAX 2000, the CHX's new price improvement program, which will govern price improvement of all orders for issues quoting in decimal price increments. SuperMAX 2000 was designed to afford specialists the flexibility to provide a wide variety of price improvement alternatives, all of which will be equal to or more favorable than alternatives that existed previously. SuperMAX 2000 originally did not by its terms permit price improvement of odd lot orders.

In assessing price improvement offered by other members of the securities industry, the Exchange believes that, in order to be competitive, its odd lot dealers must be permitted (but not obligated) to offer price improvement of odd lot orders. The proposal would permit odd lot dealers to provide price improvement of $.01 or better, in the case of odd lot orders received when the national best bid and offer spread is $.05 or larger.

The Exchange believes that the proposal will ensure that SuperMAX 2000 provides CHX odd lot dealers with the requisite flexibility to respond to customer price improvement requirements in a decimal environment. The proposal contemplates equality among order-sending firms (and their customers) by mandating that price improvement be provided by CHX odd lot dealers on an issue-by-issue basis; odd lot dealers would not be permitted to distinguish among order-sending firms when designating price improvement levels. Moreover, SuperMAX 2000 remains a strictly voluntary price improvement program; odd lot dealers who do not wish to participate are not obligated to enable SuperMAX 2000 for any or all issues they trade.

2. Statutory Basis

The CHX believes the proposed rule change is consistent with Section 6(b)(5) of the Act[4] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 either solicited or 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 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.

The CHX has requested accelerated approval of the proposed rule change. While the Commission will not grant accelerated approval at this time, the Commission will consider granting accelerated approval of the proposal at the close of an abbreviated comment period of 15 days from the date of publication of the proposal in the **Federal Register**.

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 coping at the principal office of the Exchange. All submissions should refer to file number SR–CHX–01–06 and should be submitted by April 12, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7597 Filed 3–27–01; 8:45 am]

BILLING CODE 8010–01–M

[3] Securities Exchange Act Release No. 43742 (December 19, 2000), 65 FR 83119 (December 29, 2000).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44091; File No. SR–NASD–00–69]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a New Registration Category: Limited Representative—Private Securities Offerings

March 21, 2001.

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 28, 2000, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by NASD Regulation. NASD Regulation filed Amendment No. 1 to the proposed rule change on February 28, 2001.[3] Amendment No. 1 replaces the proposed rule change in its entirety. On March 14, 2001, NASD Regulation filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend Rule 1032 of the NASD to implement Section 203 the Gramm-Leach-Bliley Act of 1999 (''GLBA''),[5] which becomes effective on May 12, 2001. The proposed rule change creates a limited registration category for an associated person of a member whose investment banking and securities business is limited solely to effecting sales of private securities offerings. Section 203 also states that any bank employee who during the six-month period prior to the enactment of GLBA engaged in effecting such sales shall be deemed qualified in such limited registration category without having to complete an examination. NASD Regulation also is making clerical changes to Rule 1032, essentially replacing the word ''described'' for the word ''prescribed.'' Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

1032. Categories of Representative Registration

* * * * *

(b) Limited Representative—Investment Company and Variable Contracts Products

* * * * *

(2) A person qualified solely as a Limited Representative—Investment Company and Variable Contracts Products shall not be qualified to function as a representative in any area not [pr]*d*escribed in paragraph (b)(1)(A) hereof.

(c) Limited Representative—Direct Participation Programs

* * * * *

(2) A person qualified solely as a Limited Representative—Direct Participation Programs shall not be qualified to function in any area not [pr]*d*escribed *in*[by] subparagraph (1) hereof.

* * * * *

(d) Limited Representative—Options

* * * * *

(3) A person registered as a Limited Representative—Options shall not be qualified to function in any area not [pr]*d*escribed *in*[by] subparagraph (1) hereof.

(e) Limited Representative—Corporate Securities

* * * * *

A person qualified solely as a Limited Representative—Corporate Securities shall not be qualified to function in any area not [pr]*d*escribed *in*[by] subparagraph (1) hereof.

(g) Limited Representative—Government Securities

* * * * *

(2) A person registered solely as a Limited Representative—Government Securities shall not be qualified to function in any area not [pr]*d*escribed *in*[by] subparagraph (1)(A) hereof.

(h) Limited Representative—Private Securities Offerings

(1) Each person associated with a member who is included within the definition of a representative as defined in Rule 1031 may register with the Association as a Limited Representative—Private Securities Offerings if:

(A) *such person's activities in the investment banking and securities business involve effecting sales as part of a primary offering of securities not involving a public offering, pursuant to Section 3(b), 4(2) or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, provided, however, that such person shall not effect sales of municipal or government securities, or equity interests in or the debt of direct participation programs as defined in Rule 1022(e)(2); and*

(B) *subject to subparagraph (2) hereof, such person passes an appropriate qualification examination for Limited Representative—Private Securities Offerings.*

(2) The Association shall, upon such evidence as the Association determines to be appropriate, deem any person who while employed by a bank, engaged in effecting sales of private securities offerings as described in subparagraph (1)(A) hereof, during the period from May 12, 1999 to November 12, 1999, as qualified to register as a Limited Representative—Private Securities Offerings without the need to pass the qualification examination required by subparagraph (1)(B) hereof.

(3) A person registered as a Limited Representative—Private Securities Offerings shall not be qualified to function in any area not described in subparagraph (1)(A) hereof.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jeffrey S. Holik, Vice President and Acting General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated February 28, 2001 (''Amendment No. 1''). Amendment No. 1 was filed to address SEC staff comments and to make certain clarifications.

[4] *See* letter from Gary L. Goldsholle, Associate General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division, Commission, dated March 14, 2001 (''Amendment No. 2''). Amendment No. 2 was filed to address additional SEC staff comments and to make further clarifications.

[5] Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106–102, 113 Stat. 1338 (1999).

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 implement Section 203 of GLBA. Section 203 adds new subsection (j) to Section 15A of the Act, which requires that the NASD, as a registered securities association, create a limited registration category for any associated person of a member whose investment banking and securities business is limited solely to effecting sales of private securities offerings. Section 203 also states that any bank employee who during the six-month period prior to the enactment of GLBA (*i.e.,* from May 12, 1999 to November 12, 1999) engaged in effecting such sales shall not be required to pass a qualification examination in order to be deemed qualified in the limited registration category. Section 203 becomes effective on May 12, 2001.

GLBA also establishes functional regulation, meaning that each industry segment of a multi-industry organization will be regulated by the agency charged by law with the regulation of that industry. In connection with functional regulation, GLBA eliminates the long-standing general exclusion for banks from the definitions of ''broker'' and ''dealer'' under the Act and instead provides exclusions for certain bank activities. With respect to private placement activity, GLBA permits private placements to be effected in a bank (that is not a broker or dealer) where (a) the bank is not affiliated with any broker or dealer, the aggregate dollar amount of any private placement offering (excluding government or municipal securities) does not exceed 25% of the bank's capital. A bank that meets these conditions will be eligible to engage in private placement activities without having to register its personnel with the NASD. Notwithstanding this exclusion, many banks will be required to effect private securities offerings in a registered broker/dealer. For banks that are not excluded from the definition of ''broker,'' employees that effect sales of private securities offerings will be required to become associated persons of a registered broker/dealer, and as such, will be subject to NASD qualification examination and other requirements.

As part of the effort to facilitate a smooth transition of private placement activities from banks to broker/dealers, GLBA creates a new limited registration category for persons engaging solely in sales of private securities offerings. As noted above, while certain banks will still be permitted to engage in private securities offerings, many others will be required to effect these sales in a registered broker/dealer with appropriately registered personnel.

The proposed rule change effectuates the provisions of Section 203 by establishing a new registration category for persons engaged solely in sales of private securities offerings through a registered broker/dealer. Applicants seeking to register with the NASD under this limited registration category must meet the eligibility criteria for associated persons of a member in the NASD By-Laws and pass the necessary qualification examination. However, consistent with GLBA, the proposed rule change provides that any person who engaged in sales of private securities offerings as an employee of a bank during the period from May 12, 1999 to November 12, 1999, is not required to complete the qualification examination. An applicant seeking exemption from the qualification examination pursuant to this provision will be required to provide such evidence as NASD Regulation determines to be appropriate, demonstrating that he or she was engaged in effecting sales of private securities offerings at the bank during the period from May 12, 1999 to November 12, 1999.

The new limited registration category permits a person to effect sales of private securities offerings. However, the new limited registration category does not permit a person to effect sales of municipal or government securities or equity interests in or the debt of direct participation programs (''DPP securities''). Although sales of municipal securities and DPP securities may involve private securities offerings, NASD Regulation does not believe that the limited registration category should allow persons to sell such securities. Persons who effect sales of municipal securities, including bank employees, currently are required to be qualified in accordance with the rules of the Municipal Securities Rulemaking Board (''MSRB''). MSRB rules, among other things, require that persons pass a specific qualification examination. NASD Regulation does not believe that the new limited registration category was intended to create a subcategory of persons that are eligible to engage in certain offerings of municipal securities without meeting the specific qualification requirements of the MSRB.

Based upon conversations with SEC staff, NASD Regulation has included language in the proposed rule change to exclude from the scope of the limited registration category the ability to effect sales of private placements of government securities. With respect to government securities, NASD Regulation already offers a limited registration category for persons involved in the solicitation, purchase or sale of government Securities.[6] Moreover, although neither NASD Regulation nor the SEC staff currently is aware of any private offerings of government securities, the SEC staff believes that it is important to exclude government securities from the limited registration category, similar to the exclusion for municipal securities given the manner in which these products are addressed in the GLBA.

The new limited registration category also does not qualify a person to engage in offerings of DPP securities. In general, DPP securities are specialized programs that provide for flow-through tax consequences. Persons who wish to effect sales of DPP securities are required to register as a general securities representative or under a limited registration category for DPP securities.[7] Based upon conversations with banking industry representatives, NASD Regulation does not believe that unregistered bank employees generally effect sales of DPP securities. In view of the highly specialized nature of DPP securities, the existence of a limited registration category for such securities, and the general lack of experience in such securities by unregistered bank personnel, NASD Regulation does not believe that the new limited registration category should qualify an associated person to sell DPP securities. Moreover, by eliminating DPP securities from the scope of the new limited registration category, the qualification examination will not be burdened with questions on these highly specialized products. However, with respect to current bank employees who may be eligible to register under the new limited registration category without taking the qualification examination pursuant to paragraph (h)(2) of the proposed rule change, NASD Regulation staff has exemptive authority under NASD Rule 1070 and under such authority will consider on a case-by-case basis, whether a bank employee with experience in DPP securities registering with a broker/dealer should be authorized to effect sales of DPP securities without having to complete the general securities representative or specific DPP securities limited qualification examination.

[6] *See* NASD Rule 1032(g).

[7] *See* NASD Rule 1032(c).

Finally, NASD Regulation emphasizes that the new limited registration category permits persons only to effect sales of private placement securities as part of a primary offering. As such, persons registered in this category will not be permitted to effect resales of or secondary market transactions in private placement securities. Any person wishing to effect resales of or secondary market transactions in private placement securities will be required to register as a General Securities Representative, or, where appropriate, as a Limited Representative—Corporate Securities.

NASD Regulation is making the proposed rule change to effectuate the provisions of Section 203 of GLBA. NASD Regulation staff is currently in the process of developing the qualification examination and will file the study outline and specifications under separate cover.

NASD Regulation also is making several clerical changes to Rule 1032, replacing the word ''described'' for the word ''prescribed.'' This change more accurately reflects the intended meaning of the affected paragraphs.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change also is necessary to implement Section 203 of GLBA.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 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 the file number SR–NASD–00–69 and should be submitted by April 18, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7595 Filed 3–27–01; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78o–3(b)(6).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44088; File No. SR–Phlx–01–21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Primary Trading Session Hours for Equities Whose Primary Market Is Not the Exchange

March 20, 2001.

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 March 16, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 101 to establish the Primary Trading Session hours of securities whose primary market is not the Exchange. Under the proposal, the first trading session (''Primary Trading Session'') would be conducted on the floor of the Exchange during the same hours the security is trading on its primary market, if the Exchange is not the primary market for such security, provided, however, that if the primary market for such security is PCX Equities, Inc., the Primary Trading Session for such security shall end no later than 4 p.m. Eastern Time.

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

Rule 101—Hours of Business

* * * * *

Supplementary Material:

* * * * *

.02 Equity Trading Hours. *Unless otherwise announced by the Exchange:*

(i) The first trading session (the ''Primary Trading Session'') will be conducted on the floor of the Exchange (1) during the same hours the security is traded on its primary market, if the Exchange is not the primary market for such security, provided, however, if the primary market for such security is PCX Equities, Inc.,[3] *the Primary Trading Session for that security shall end no later than 4 p.m. Eastern time; or (2) from 9:30 a.m. to 4 p.m. Eastern time, Monday through Friday, if the Exchange is the primary market for such security.* [Trading in any equity security on the Exchange's equity trading floor—

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In the original proposed rule text, Phlx identified this entity as the ''Pacific Stock Exchange.'' The final rule text will, as shown here, use the term ''PCX Equities, Inc.'' Telephone conversation between Diana Tenenbaum, Counsel, Phlx, and Michael Gaw, Special Counsel, Division of Market Regulation, Commission, on March 19, 2001. Conforming changes have been made to the draft **Federal Register** notice provided by Phlx.

shall commence at 9:30 a.m. and end at 4 p.m., each business day, unless otherwise announced by the Exchange, except that:]

(i*i*) [t]*T*he Post-Primary session (''PPS'') will operate from 4 to 4:15 p.m*.,* for PPS-designated orders pursuant to Rule 232(b) *for the purchase and sale of securities traded on the Primary Trading Session until 4 p.m.*[;]

(ii*i*) [t]*T*he after hours trading facility for GTX orders will operate pursuant to Rule 232(c). [;and

(iii) Transactions in Nasdaq-100 Index Tracking Stock may be effected on the Exchange until 4:15 p.m. each business day as well as pursuant to Rule 232(c).]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx 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. Phlx 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

I. Purpose

The purpose of the proposed rule change is to establish in Phlx Rule 101 the Primary Trading Session hours for equities whose primary market is not Phlx. Phlx Rule 101 is a general provision dealing with hours of business on the Exchange. Supplementary Material .02 to Rule 101 provides that ''[t]rading in any equity security on the Exchange's equity trading floor shall commence at 9:30 a.m. and end at 4 p.m. each business day, unless otherwise announced by the Exchange * * *'' This broad provision is applicable to all equities. However, subsection (iii) of Supplementary Material .02 states that trading in Nasdaq 100 Index Tracking stock sm will take place until 4:15 p.m.

The proposed rule defines ''Primary Trading Session'' to track the hours of trading of each security on its primary market. Proposed Supplementary Material .02 states that the Primary Trading Session will be conducted during the same hours as the primary trading session on the security's primary market. The proposed rule change provides that, if the primary market for such security is PCX Equities, Inc., the Primary Trading Session shall end no later than 4 p.m. Eastern Time. Since the proposed rule change set forth trading hours of all the equities traded primarily on other exchanges (including Nasdaq 100 Index Tracking Stock sm, the Exchange proposes to delete subsection (iii).

The proposed amendment's general definition should help to accommodate future changes in the trading hours of the equities at their primary market, without the need of periodic amendments. Furthermore, as the number of products traded on the Exchange on an Unlisted Trading Privileges (''UTP'') basis grows, so will the need for rules establishing trading parameters for these products. Proposed Supplementary Material .02 should be broad enough to address the trading hours of all UTP equity products that will be traded on Phlx in the future, without requiring additional rule amendments stating the specific trading hours of each new product.

In practice, the proposed rule change will not effect a change in the current trading hours of the equities traded on Phlx. All equity trading on Phlx is conducted between the hours of 9:30 a.m. and 4 p.m. (the Primary Trading Session hours), except for the Post Primary Session (''PPS'') and other specific cases stated in Phlx Rule 101. Under the proposed rule change, for equities traded on the Primary Trading Session until 4 p.m., PPS would continue to take place from 4 p.m. and 4:15 p.m. Equities whose Primary Trading Session ends after PPS began cannot be traded on PPS. The proposed rule change does not change the PPS trading hours.

2. Statutory Basis

Phlx believes the proposed rule change is consistent with Section 6 of the Act [4] in general, and furthers the objectives of Section 6(b)(5) [5] in particular, in that it provides investors and the public as a whole with an alternative forum for trading, which operates during the same hours as the primary market. Phlx asserts that the proposed amendment should result in greater liquidity and more competitive pricing for the equities traded both on Phlx and on the primary market during the same hours.

B. Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change would impose any inappropriate 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 either solicited or 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 with 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 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 Phlx. All submissions should refer to File No. SR–Phlx–01–21 and should be submitted by April 18, 2001.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7598 Filed 3–27–01; 8:45 am]

BILLING CODE 8010–01–M

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

The following forms, to be used only in the event that inductions into the armed services are resumed, have been submitted to the Office of Management and Budget (OMB) for the extension of clearance in compliance with the Paperwork Reduction Act (44 U.S. Chapter 35):

SSS—254

Title: Application for Voluntary Induction.

Purpose: Is used to apply for voluntary induction into the Armed Services.

Respondents: Registrants or nonregistrants who have attained the age of 17 years, who have not attained the age of 26 years and who have not completed his active duty obligation under the Military Selective Service Act.

Frequency: One-time.

Burden: The reporting burden is twelve minutes or less per individual.

SSS—350

Title: Registrant Travel Reimbursement Request.

Purpose: Is used to request reimbursement for expenses incurred when traveling to or from a Military Entrance Processing Station in compliance with an official order issued by the Selective Service System.

Respondents: All registrants required to travel to or from a Military Entrance Processing Station at their own expense.

Frequency: One-time.

Burden: The reporting burden is ten minutes or less per request.

Copies of the above identified forms can be obtained upon written request to Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Written comments and recommendations for the proposed extension of clearance of the form(s) should be sent within 60 days of publication of this notice to Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: March 21, 2001.

Gil Coronado,

Director.

[FR Doc. 01–7580 Filed 3–27–01; 8:45 am]

BILLING CODE 8015–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 27, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer*, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer*, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Disaster Survey Worksheet.

No: 987.

Frequency: On Occasion.

Description of Respondents: Applicants who warrant disaster declaration.

Annual Responses: 40.

Annual Burden: 332.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–7581 Filed 3–27–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3322]

State of Alabama

Covington and Washington Counties and the contiguous counties of Baldwin, Butler, Choctaw, Clarke, Coffee, Conecuh, Crenshaw, Escambia, Geneva and Mobile in the State of Alabama; Okaloosa and Walton in the State of Florida; Greene and Wayne in the State of Mississippi constitute a disaster area due to damages caused by severe storms and tornadoes that occurred on March 12, 2001. Applications for loans for physical damage may be filed until the close of business on May 18, 2001 and for economic injury until the close of business on December 18, 2001 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 332211 for Alabama; 332311 for Florida; 332411 for Mississippi. For economic injury the numbers are 9K9900 for Alabama, 9L0000 for Florida, 9L0100 for Mississippi.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 19, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–7582 Filed 3–27–01; 8:45 am]

BILLING CODE 8025–01–U

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Bureau of Consular Affairs, Passport Services

[Public Notice 3618]

60-Day Notice of Proposed Information Collection (OMB #1405–0014): DSP–64, Statement Regarding Lost or Stolen Passport

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Revision of a currently approved collection.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Statement Regarding Lost or Stolen Passport.

Frequency: On Occasion.

Form Number: DSP–64.

Respondents: Individuals or Households.

Estimated Number of Respondents: 70,000.

Average Hours Per Response: 1/12 hr. (5 minutes).

Total Estimated Burden: 5,833.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–663–2460.

March 16, 2001.

Georgia Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 01–7655 Filed 3–27–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Bureau of Consular Affairs, Passport Services

[Public Notice 3619]

60-Day Notice of Proposed Information Collection (OMB #1405–0007): DSP–19, Passport Amendment/Validation Application

AGENCY: U.S. Department of State

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Revision of a currently approved collection.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Passport Amendment/Validation Application.

Frequency: On Occasion.

Form Number: DSP–19.

Respondents: Individuals or Households.

Estimated Number of Respondents: 279,400.

Average Hours Per Response: 1/12 hr. (5 minutes).

Total Estimated Burden: 23,283.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW, Room H904, Washington, D.C. 20522, and at 202–663–2460.

March 16, 2001.

Georgia Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 01–7656 Filed 3–27–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Bureau of Consular Affairs, Passport Services

[Public Notice 3620]

60-Day Notice of Proposed Information Collection (OMB #1400–0009): DSP–60, Affidavit Regarding Change of Name

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Revision of a currently approved collection.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Affidavit Regarding Change of Name.

Frequency: On occasion.

Form Number: DSP–60.

Respondents: Individuals or Households.

Estimated Number of Respondents: 106,800.

Average Hours Per Response: 1/4 hour (15 minutes).

Total Estimated Burden: 26,700.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW, Room H904, Washington, D.C. 20522, and at 202–663–2460.

Dated: March 16, 2001.

Georgia Rogers,

Deputy Assistant Secretary Bureau of Consular Affairs, Department of State.

[FR Doc. 01–7657 Filed 3–27–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Bureau of Consular Affairs, Passport Services

[Public Notice 3621]

60-Day Notice of Proposed Information Collection (OMB #1400–0010): DSP–10A, Birth Affidavit

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Revision of a currently approved collection.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Birth Affidavit.

Frequency: On Occasion.

Form Number: DSP–10A.

Respondents: Individuals or households.

Estimated Number of Respondents: 81,500.

Average Hours Per Response: ¼ hour (15 min).

Total Estimated Burden: 20,375.

Public comments are being solicited to permit the agency to:

• Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–663–2460.

Dated: March 16, 2001.

Georgia Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 01–7658 Filed 3–27–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 3622]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Light: Art, Technology and Society in the Industrial Age, 1750–1900''

AGENCY: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended by Delegation of Authority No. 236–3 of August 28, 2000 [65 FR 53795], I hereby determine that the objects to be included in the exhibit, ''Light: Art, Technology and Society in the Industrial Age, 1750–1900,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the objects at the Carnegie Museum of Art, Pittsburgh, Pennsylvania, from on or about April 7, 2001, to on or about July 29, 2001, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit object, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is Room 700, United States Department of State, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: March 22, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–7650 Filed 3–27–01; 8:45 am]

BILLING CODE 4710–08–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–2001–8696]

Notice of Extended Period for Public Comments on DOT's Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The purpose of this notice is to re-open the time period for public comments on DOT's Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries. The Guidance was published in the **Federal Register** 66 FR 6733, January 22, 2001.

DATES: Comments from the public on this Guidance are encouraged and invited on or before May 29, 2001.

ADDRESSES: Written comments should be addressed to Marc Brenman, Senior Policy Advisor, Office of Civil Rights, Department of Transportation, 400 7th St. SW., Washington, DC 20590, or marc.brenman@ost.dot.gov; comments may also be submitted by facsimile at 202–366–9371.

FOR FURTHER INFORMATION CONTACT: Marc Brenman, Office of Civil Rights, 400 7th St. SW., Washington, DC 20590, telephone 202–366–1119; email marc.brenman@ost.dot.gov; or David Tochen, Office of the General Counsel, 400 7th St. SW., Washington, DC 20590, telephone 202–366–9153, e-mail david.tochen@ost.dot.gov.

SUPPLEMENTARY INFORMATION: On January 22, 2001, DOT published Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries. DOT

requested that comments be submitted on or before March 23, 2001. In response to requests from interested parties, DOT is now re-opening the comment period for this Notice until May 29, 2001.

Issued in Washington, DC on March 22, 2001.

Mary N. Whigham Jones,

Deputy Director, Departmental Office of Civil Rights.

[FR Doc. 01–7618 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9172]

National Offshore Safety Advisory Committee; Charter Renewal

AGENCY: Coast Guard, DOT.

ACTION: Notice of charter renewal.

SUMMARY: The Secretary of Transportation has renewed the charter for the National Offshore Safety Advisory Committee (NOSAC) for 2 years from January 11, 2001, until January 11, 2003. NOSAC is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Coast Guard on safety and environmental protection issues relating to the offshore mineral and energy industries.

ADDRESSES: You may request a copy of the charter by writing to Commandant (G–MSO), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–0214; or by faxing 202–267–4570. This notice and the charter are available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Captain Peter Richardson, Executive Director of NOSAC, or Mr. Jim Magill, Assistant to the Executive Director, telephone 202–267–1082, fax 202–267–4570.

Dated: March 15, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–7625 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD13–01–003]

Thirteenth Coast Guard District; Relocation of Assets Along North Washington Coast and Closure of Station Quillayute River

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments; notice of intent to prepare environmental assessment.

SUMMARY: The Thirteenth Coast Guard District is holding a series of public meetings to discuss changes in the overall risk environment along the North Washington Coast and a proposed relocation of assets including the closure of Station Quillayute River. The Coast Guard announces its intent to prepare an Environmental Assessment (EA) to cover these proposed actions. The public meetings are meant to discuss, answer questions, and get feedback from the public about these proposed actions. The Coast Guard is also seeking written feedback.

DATES: The open meetings will be held on:

1. April 16, 2001, from 6:30 p.m. to 9 p.m., in LaPush, Washington
2. April 17, 2001, from 6:30 p.m. to 9 p.m., in Forks, Washington
3. April 18, 2001, from 6:30 p.m. to 9 p.m., in Port Townsend, Washington
4. April 19, 2001, from 6:30 p.m. to 9 p.m., in Port Angeles, Washington

A public open house will be held before each meeting from 3:30 p.m. to 5:30 p.m.

Written material, including comments submitted via the Internet must reach the Coast Guard on or before April 23, 2001.

ADDRESSES: The meetings will be held at the following locations:

1. LaPush, Washington—Coast Guard Station; end of LaPush Road; LaPush, WA 98350
2. Forks, Washington—Forks New High School Commons; 411 South Spartan Avenue; Forks, WA 98331
3. Port Townsend, Washington—Pope Marine Building; 540 Water Street; Port Townsend, WA 98368
4. Port Angeles, Washington—City Council Chambers; 321 East Fifth Street; Port Angeles, WA 98362

You may mail comments to the Chief, Resource Management Division, Thirteenth Coast Guard District, Room 3408, Jackson Federal Building, 915 Second Avenue, Seattle, WA 98174–1067. You may also deliver written comments to the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 206–220–7130 or 800–982–8813 extension 7130. You may also submit comments via the Internet at http://www.uscg.mil/D13.

FOR FURTHER INFORMATION CONTACT: For further information on this notice contact Commander Carl Bromund, Chief of Thirteenth Coast Guard District Resource Management Division, telephone 206–220–7130 or 800–982–8813, extension 7130.

SUPPLEMENTARY INFORMATION:

Background Information

The general population, number of registered boaters, and commercial vessel activity is increasing in the Strait of Juan de Fuca and Puget Sound Region causing an increase in demand for Coast Guard services. Along with these increases, there is an expanded need to counter drug smuggling activity and enforce laws for commercial and recreational fishing in the same region.

The Search and Rescue workload at Station Quillayute River has been declining over the past five years. The station has responded to an annual average of less than 28 cases in the last four years, and has only responded to six cases where lives were at risk since 1993. On average, Coast Guard Stations in Washington and Oregon (including Station Quillayute River) respond to about 160 cases per year. In the past five months (between October 1, 2000 and February 28, 2001), the Station has only performed eight Search and Rescue cases. If the proposed relocation were to occur, the demand for Coast Guard services in the Quillayute River area will continue to be met by newer and faster vessels located at Grays Harbor and Neah Bay and the existing aircraft from Port Angeles.

A Search and Rescue (SAR) Performance Model Evaluation was completed to analyze the mission impact of closing Station Quillayute River. The SAR Performance Model is a computer model used to quantify SAR system performance within the area of operations around a station. The results from that analysis showed no significant difference operating with Station Quillayute River open or closed with regards to the estimated number of lives saved, cases with response time greater than 2 hours, or 90% response time (90% of the cases are responded to within this time). An average increase of 9 minutes is predicted for the response time if the station were to be closed.

The Coast Guard is proposing to move the people and boats assigned at Station

Quillayute River to Port Angeles and Port Townsend. In the last four years, on average, 89 cases per year have occurred in the waters adjacent to Port Angeles and Port Townsend. The Coast Guard has responded to these cases using helicopters stationed at Port Angeles. Additional boats and people at Port Angeles and Port Townsend would reduce the risk that lives and property would be lost in cases adjacent to those areas.

The EA will be prepared in accordance with Coast Guard procedures and policies (Commandant Instruction M16475.1C) and section 102 (2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–15068).

Request for Comments

The Coast Guard encourages submission of written data, views, or arguments on this notice. Persons submitting comments should include their names and addresses, identify this notice (CGD13–01–003), the specific issue that each comment addresses, and the reason for the comment. Please submit all comments and attachments in an unbound format, no larger than 8.5 by 11 inches to the Coast Guard at the address under **ADDRESSES.** If you want acknowledgment of receipt of your comment, enclose a stamped, self-addressed postcard or envelope. Public comments can be submitted on the Internet at http://www.uscg.mil/D13. The Coast Guard will consider all comments received during the comment period.

Agenda for Meeting

(1) 6:30 p.m.–6:40 p.m.: Introduction, Review of Agenda, Presentation of Background Information
(2) 6:40 p.m.–8:50 p.m.: Public Comments—opportunity for individuals to make oral presentations of 3–5 minutes each according to schedule developed through process described under *Public Meeting*
(3) 8:50 p.m.: Summary and Conclusion
(4) 9 p.m.: Adjourn

Public Meeting

Attendance is open to the public. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify Commander Carl Bromund listed under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted before, during, or after the meeting. Public comments can be submitted and more information on the proposal is available on the Internet at http://www.uscg.mil/D13. Persons unable to attend the public meetings are encouraged to submit written comments as outlined above.

Information on Service for Individuals with Disabilities

For information on facilities or services for individuals with disabilities, or to request assistance at the meeting(s), contact Commander Carl Bromund at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: March 21, 2001.

T.H. Gilmour,

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

[FR Doc. 01–7626 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application. 01–07–C–00–CRW To Impose and Use and Impose the Revenue From a Passenger Facility Charge (PFC) at Yeager Airport, Charleston, West Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and to impose and use the revenue from a PFC at the Yeager Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 27, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

FAA Eastern Region, AEA–610, 1 Aviation Plaza, Jamaica, New York 11434–4809.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Tim Murnahan, Assistant Director of the Central West Virginia Regional Airport Authority at the following address: 100 Airport Road, Suite 175, Charleston, WV 25311.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Central West Virginia Regional Airport Authority under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Kenneth Kroll, AIP/PFC Team Leader, Programming and Planning Branch, FAA Eastern Region Airports Division, 1 Aviation Plaza, Jamaica, New York, 718–553–3357. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and to impose and use revenue from a PFC at Yeager Airport under the provision of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 16, 2002 the FAA determined that the application to impose and to impose and use revenue from a PFC submitted by the Central West Virginia Regional Airport Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 16, 2001.

The following is a brief overview of the application.

PFC Application No.: 01–07–C–00–CRW.

Level of the proposed PFC: $4.50.

Proposed charge effective date: August 1, 2002.

Proposed charge expiration date: October 1, 2002.

Total estimated PFC revenue: $1,306,248.

Brief description of proposed project(s):

- Acquire Equipment—Security Cameras
- Improve main terminal Buildings—Bathrooms (6)
- Security Equipment Paging System
- Improve Main Apron—Apron Expansion 3
- Improve Main Terminal Building—Emergency Generator
- Reconstruct Main Apron

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Under FAR Part 135, Charter Operators for hire to the general public; Under FAR Part 121, Charter Operators for hire to the general public; Non-signatory and non-scheduled Air carriers which operate from the airport and enplane less than one percent of the annual Enplanements.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: 1 Aviation Plaza, Airports Division, AEA–610, Jamaica, New York 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Central West Virginia Regional Airport Authority.

Issued by AEA–610, Airports Division, Jamaica, NY, on March 16, 2001.

Tom Felix,

Manager, Planning and Programming Branch, Eastern Region.

[FR Doc. 01–7661 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Agency Information Collection Activities: Submission for OMB Review

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA has forwarded the information collection requests described in this notice to the Office of Management and Budget (OMB) for review and comment. We published a Federal Register Notice with a 60-day public comment period on these information collections on November 6, 2000 (65 FR 66578). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 27, 2001.

ADDRESSES: You may send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of these information collections, including: (1) Whether the proposed collections are necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including the use of electronic technology, without reducing the quality of the collected information.

SUPPLEMENTARY INFORMATION:

1. *OMB Control Number:* 2125–0529 (Expiration Date: May 31, 2001).

Title: Preparation and Execution of the Project Agreement and Modifications.

Abstract: Formal agreements between State transportation departments and the FHWA are required for Federal-aid highway projects. These agreements, referred to as ''project agreements'' are written contracts between the State and the Federal government that define the extent of work to be undertaken and commitments made concerning a highway project. Section 1305 of the Transportation Equity Act for the 21st Century (TEA–21, Pub. L. 105–178) amended 23 U.S.C. 106(a) and combined authorization of work and execution of the project agreement for a Federal-aid project into a single action. States continue to have the flexibility to use whatever format is suitable to provide the statutory information required, and burden estimates for this information collection are not changed.

Respondents: 50 State Transportation Departments, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Territories of Guam, the Virgin Islands and American Samoa.

Estimated Total Annual Burden: 12,040 hours. There are an average of 215 annual agreements per respondent. Each agreement requires approximately one hour to complete.

FOR FURTHER INFORMATON CONTACT: Mr. Jack Wasley, (202) 366–4658, Infrastructure Core Business Unit, Federal Highway Administration, Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

2. *OMB Control Number:* 2125–0562 (Expiration Date May 31, 2001).

Title: Nationwide Survey of ''Public Roads'' Readers.

Abstract: ''Public Roads'' is a bimonthly magazine published by the FHWA. The FHWA conducts periodic surveys of its readers to improve the quality and content of the magazine. Executive Order 12862 requires all agencies to identify their customers, survey their satisfaction with current services, set standards for service and measure results against them. The results of ongoing surveys will be used to gauge overall reader satisfaction and solicit feedback for improvements.

Respondents: Approximately 1,500 paid and complementary subscribers to ''Public Roads'' magazine.

Frequency: Approximately every 3 years.

Estimated Total Annual Burden: 375 hours. The average burden per response is 15 minutes.

FOR FURTHER INFORMATON CONTACT: Ms. Martha Soneira, 202–493–3468, Department of Transportation, Federal Highway Administration, Research, Development and Technology Service Business Unit, Turner-Fairbank Highway Research Center, 6300 Georgetown Pike, McLean, VA 22101. Office hours are from 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

3. *OMB Control Number:* 2125–0525 (Expiration Date: May 31, 2001).

Title: Emergency Relief Funding Applications.

Abstract: Section 125 of Title 23 United States Code requires States to submit applications to the FHWA for emergency relief (ER) funds. The ER funds are established for the repair or reconstruction of Federal-aid highways and Federal roads which have suffered serious damage by natural disasters over a wide area or serious damage from catastrophic failures. The information is needed for the FHWA to fulfill its statutory obligations regarding funding determinations on emergency work to repair highway facilities. The requirements covering the FHWA ER program are contained in 23 CFR part 668.

Respondents: 50 State Transportation Departments, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Territories of Guam, the Virgin Islands and American Samoa.

Frequency: As required.

Estimated Total Annual Burden: 6,000 hours. 200 hours per application for an average of 30 annual applications.

FOR FURTHER INFORMATON CONTACT: Mr. Mohan Pillay, 202–366–4655, Department of Transportation, Federal Highway Administration, Infrastructure Core Business Unit, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 21, 2001.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 01–7617 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement for the San Francisco Transbay Terminal and Caltrain Downtown Extension Project in San Francisco, CA

AGENCY: Federal Transit Administration, Department of Transportation.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), in cooperation with the Peninsula Corridor Joint Powers Board (JPB), the City and County of San Francisco, and the San Francisco Redevelopment Agency will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Transbay Terminal and Caltrain Downtown Extension Project in accordance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The EIS/EIR will address alternatives for: (1) A new, multi-modal transportation facility at the site of the current Transbay Terminal at First and Mission Streets, and (2) an extension of Caltrain commuter rail service from its current San Francisco terminus at 4th and Townsend to the new Transbay Terminal along with establishment of a redevelopment area and development of a mix of new transit-oriented uses on publicly-owned property in the vicinity of the new terminal to help defray project costs. Other project features include: an off-site bus storage facility, new bus ramps connecting to the Bay Bridge, construction and operation of a temporary bus facility for the construction period, and a reconfigured Caltrain layover yard. The EIS/EIR will evaluate the following alternatives: (1) A No-Build Alternative, (2) a Build Alternative with design options, and (3) any additional reasonable alternatives that emerge from the scoping process.

Previous studies relevant to this action include: the recently completed Transbay Terminal Study (Metropolitan Transportation Commission, 2001); associated technical reports regarding such subjects as Transbay Terminal design options, joint development options, and terminal operations; and the original Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR) for the Caltrain San Francisco Downtown Extension Project (FTA-U.S. DOT/Peninsula Corridor Joint Powers Board, 1997). Although the 1997 DEIS/DEIR contributed to the planning history of the proposed project, this new EIS/EIR will completely replace the 1997 document.

Scoping will be accomplished through meetings and correspondence with interested persons, organizations, the general public, and federal, state, and local agencies. Letters describing the proposed action and soliciting comments have been sent to the appropriate federal, state, and local agencies, and to private organizations and citizens who have expressed or are known to have interest in this proposal.

DATES: Comment Due Date—Written comments on the scope of alternatives and impacts to be considered must be postmarked no later than April 18, 2001 and should be sent to the San Francisco Planning Department at the address below. Scoping Meetings—Two public scoping meetings will be held: April 4, from 6:00 until 8:00 p.m. at the San Francisco City Hall, Room 400, 1 Dr. Carlton B. Goodlett, Jr. Place, San Francisco, California 94102; and April 11, from 6:00 until 8:00 pm at the Peninsula Corridor Joint Powers Board, 2nd Floor Auditorium, 1250 San Carlos Avenue, San Carlos, California 94070. The first hour (6–7 p.m.) will be an open house. A brief presentation of the project purpose and alternatives will be provided at 7:00 p.m., and project staff will be present to receive formal agency and public input regarding the scope of the environmental studies, key issues, and other suggestions.

ADDRESSES: Written comments should be sent to Joan Kugler, AICP, EIR Project Manager, San Francisco Planning Department, 1660 Mission Street, Suite 500, San Francisco, CA 94103–2414. The addresses for the scoping meetings are given above in the **DATES** section.

FOR FURTHER INFORMATION CONTACT: Jerome Wiggins, Federal Transit Administration, Office of Program Development at (415) 744–3116.

SUPPLEMENTARY INFORMATION: The proposed project is located in the central business district of the City of San Francisco in the South of Market Area. The project area includes the existing Transbay Terminal (built in 1939) generally located between Mission and Natoma and Beale and Second Streets. The New Transbay Terminal is proposed to be constructed at the same site as the existing Terminal it would replace. The project includes the proposed underground right-of-way linking the existing Caltrain Terminal at 4th and Townsend to the new proposed terminal. Development, including transit-oriented development, is proposed for parcels under public ownership within the boundaries of the proposed Redevelopment Plan Area.

Purpose and Need of Proposed Action: The primary objectives of the San Francisco Transbay Terminal and Caltrain Downtown Extension Project include: improving public access to bus and rail services; modernizing the Transbay Terminal and improving service; reducing non-transit vehicle usage; and revitalizing the Transbay Terminal area.

- Improve public access to bus and rail services: A multi-modal transportation facility would provide a centralized location for bus (AC Transit, MUNI, Golden Gate, SamTrans, Greyhound), paratransit, and rail (Caltrain) services in San Francisco's growing Financial District/South of Market Area and would enhance transit access for passengers arriving in and departing San Francisco. The extension of the Caltrain system from its current terminus at 4th and Townsend to a new Transbay Terminal at First and Missions Streets would improve access for residents and workers in San Francisco's high-density financial district and improve connections to other local and regional transit providers. Additionally, a multi-modal terminal facility and Caltrain extension would facilitate future expansion of regional express train service and potential statewide high-speed rail service.
- *Modernize the Transbay Terminal and improve service:* The Metropolitan Transportation Commission (MTC), State of California, City of San Francisco, and area transit providers (AC Transit, MUNI, Golden Gate, SamTrans, and JPB) have evaluated options for replacement of the 1939 Transbay Terminal facility, due to its age, need for seismic upgrade, and inadequate facility layout. A properly designed, new terminal would improve space utilization, passenger circulation, signage, security, safety, and the overall transit-rider experience.
- *Reduce non-transit vehicle usage:* Provision of a multi-modal transportation facility would increase transit ridership, thus reducing the number of non-transit vehicles traveling on area streets, highways, and bridges. Reduction in automobile vehicle miles of travel would result in reduced vehicular air emissions and an improvement in air quality.
- *Revitalize the Transbay Terminal area:* The current Transbay Terminal and associated ramps and the now-removed Embarcadero Freeway contributed to deterioration and underutilization of land in the Transbay Terminal area. An opportunity exists to provide for more efficient and enhanced use of land in the area, including

provision of transit-oriented development and badly needed housing.

Alternatives: Alternatives to be reviewed in the EIS/EIR include a No-Project Alternative, a Build Alternative, and any additional reasonable alternatives that emerge from the scoping process. Design options will be evaluated for the Build Alternative. The No-Project Alternative assumes a 2020 baseline condition of programmed land use, low-capital-cost transportation improvements, and a seismic retrofit of the existing Transbay Terminal. The Build Alternative includes the following elements: (1) A new Transbay Terminal, (2) extension of Caltrain service into or near the basement of the new Terminal, (3) related development of publicly-owned properties in the vicinity of the Transbay Terminal, and (4) adoption of a redevelopment plan for a portion of the terminal vicinity.

A new Transbay Terminal would consist of an approximate 600,000 square-foot multi-modal transit facility with 50 bus bays on two levels served by ramps directly connected to the Bay Bridge. The basement would accommodate train platforms and tracks. The facility would include transit passenger service areas and an estimated 150,000–225,000 square feet of retail, entertainment, conference, educational, and cultural space. During MTC's Transbay Terminal Study, this concept (known as ''Great Expectations'') was adopted by the Transbay Panel and Bay Area Toll Authority (BATA) following a review of multiple design options.

Two preliminary design options are proposed for the Caltrain Downtown Extension. Key criteria used in developing the two design options include: (1) Ability to provide efficient and effective rail operations and accommodate high-speed rail, (2) potential impacts to land use and proposed developments, (3) potential for a future rail connection to the East Bay, (4) relationship of rail services to Transbay Terminal and transit operations, and (5) anticipated community impacts. Option 1 for the Caltrain Extension would follow the 1997 DEIS/DEIR ''long-radius, short mined tunnel'' alignment from 4th and Townsend to Essex Street. From there, the alignment would continue northward underground as cut-and-cover construction to a station generally oriented north-south, terminating at Minna Street just to the west of the new Transbay Terminal. Option 2 for the Caltrain Extension would curve northeasterly from Townsend Street to a cut-and-cover alignment under Second Street. As the alignment approaches Howard Street, it would curve eastward into the basement of the new Transbay Terminal. This option includes additional tracks in a cut-and-cover section passing through the east end of the new Terminal and curving south under Main Street. This track would be used for temporary train storage and could ultimately be extended as a San Francisco to Oakland cross-bay alignment.

Development of publicly-owned property along in the vicinity of the Transbay Terminal, including transit-oriented uses would enhance the Transbay Terminal area. Revenues or tax increments could be used to defray a portion of the costs for the new Transbay Terminal and Caltrain downtown extension. Two development scenarios will be evaluated in the EIS/EIR. The ''full build'' development scenario assumes about 7.7 million square feet of residential/office/retail/hotel development, including approximately 4,500 residential units (including affordable housing), 1.1 million square feet of office, 400,000 square feet of retail, and 475,000 square feet of hotel. A ''reduced scope'' development scenario that assumes a lesser amount of commercial and retail development and that is weighted toward housing will also be evaluated.

The adoption of a redevelopment plan for a portion of the terminal vicinity in the area between Mission, Main, Folsom, and Second streets is proposed to allow City assistance in the revitalization and enhancement of the Transbay Terminal area.

Probable Effects: The Build Alternative is expected to increase bus and rail transit ridership and improve the overall character of the Transbay Terminal area. Environmental impacts are anticipated in the following areas: visual and aesthetic, air emissions (related to development), traffic, transit operations, pedestrian and bicycle operations, noise, vibration, impacts to historic and cultural resources, property acquisitions, impacts of pre-existing hazardous wastes, and temporary construction-phase impacts. Mitigation measures will be identified and explored for avoiding and reducing adverse effects.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS/EIR should be directed to the San Francisco Planning Department's EIR Project Manager at the address provided above.

Issued on: March 21, 2001.

Leslie Rogers,

FTA Region IX Administrator.

[FR Doc. 01–7615 Filed 3–27–01; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 585]

Policy Statement On Use of Third-Party Contracting In Preparation Of Environmental Documentation

AGENCY: Surface Transportation Board, DOT.

ACTION: Policy statement on use of third-party contracting in preparation of environmental documentation; correction.

SUMMARY: The Surface Transportation Board published a document in the **Federal Register** on March 19, 2001, concerning Policy Statement on the use of Third-Party Contracting in Preparation of Environmental Documentation. The document omitted certain language.

FOR FURTHER INFORMATION CONTACT: Victoria Rutson, (202) 565–1545.

Correction

In the **Federal Register** of March 19, 2001, in 66 FR 15527–15532 (2001), on page 15531, in the first column, second paragraph, correct the first sentence to read:

We have examined the third-party contractor processes used by other agencies to see if we could improve our process and allow applicants to better control costs without compromising the need to ensure the independent nature of the contractor's environmental analysis.

Dated: March 19, 2001.

Vernon A. Williams,

Secretary.

[FR Doc. 01–7648 Filed 3–27–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 21, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance

Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 27, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0990.

Form Number: IRS Form 8610 and Schedule A (Form 8610).

Type of Review: Extension.

Title: Annual Low-Income Housing Credit Agencies Report (8610); and Carryover Allocation of Low-Income Housing Credit (Schedule A).

Description: State housing agencies file Form 8610 to transmit copies of Form 8609, Schedule(s) A (Form 8610), and binding agreements and election statements to the IRS. The Agencies use Schedule A (Form 8610) to report certain information contained in carryover allocation documents to the IRS.

Respondents: State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 53.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8610	Schedule A
Recordkeeping	6 hr., 27 min	3 hr., 21 min.
Learning about the law or the form	1 hr., 17 min	24 min.
Preparing and sending the form to the IRS	1 hr., 27 min	28 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 5,961 hours.

OMB Number: 1545–1584.

Form Number: IRS Form 8859.

Type of Review: Extension.

Title: District of Columbia First-Time Homebuyer Credit.

Description: Form 8859 is used to claim the District of Columbia (DC) First-Time Homebuyer Credit. The information collected will be used to verify that the credit was computed correctly.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 1,900.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	19 min.
Learning about the law or the form.	6 min.
Preparing the form	22 min.
Copying, assembling, and sending the form to the IRS.	20 min.

Frequency of Response: Other (once).

Estimated Total Reporting/Recordkeeping Burden: 2,166 hours.

OMB Number: 1545–1709.

Form Number: IRS Form 8868.

Type of Review: Extension.

Title: Application for Extension of Time to File an Exempt Organization Return.

Description: Internal Revenue Code (IRC) 6081 permits the Secretary to grant a reasonable extension of time for filing any return, declaration, statement, or other document. This form is used by fiduciaries and certain exempt organizations, to request an extension of time to file their returns. The information is used to determine whether the extension should be granted.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 248,932.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8868 Part I	Form 8868 Part II
Recordkeeping	5 hr., 30 min	5 hr., 15 min.
Learning about the law or the form	6 min	0 min.
Preparing and sending the form to the IRS	11 min	4 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,373,335 hours.

OMB Number: 1545–1730.

Regulation Project Number: REG–114998–98 Final.

Type of Review: Extension.

Title: Obligations of States and Political Subdivisions.

Description: Section 142(f)(4) of the Internal Revenue Code of 1986 permits a person engaged in the local furnishing of electric energy or gas that uses facilities financed with exempt facility bonds under section 142(a)(8) and that expands its service area in a manner inconsistent with the requirements of sections 142(a)(8) and 142(f) to make an election to ensure that those bonds will continue to be treated as tax-exempt bonds. The final regulations (1.142(f)–1) set forth the required time and manner of making this statutory election.

Respondents: State, Local or Tribal Government.

Estimated Number of Respondents: 15.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 15 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–7629 Filed 3–27–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Cost-of-Living Adjustments and Headstone or Marker Allowance Rate

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by law, the Department of Veterans Affairs (VA) is hereby giving notice of cost-of-living adjustments (COLAs) in certain benefit

rates and income limitations. These COLAs affect the pension, parents' dependency and indemnity compensation (DIC), and spina bifida programs. These adjustments are based on the rise in the Consumer Price Index (CPI) during the one year period ending September 30, 2000. VA is also giving notice of the maximum amount of reimbursement that may be paid for headstones or markers purchased in lieu of Government-furnished headstones or markers in Fiscal Year 2001, which began on October 1, 2000.

DATES: These COLAs are effective December 1, 2000. The headstone or marker allowance rate is effective October 1, 2000.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service (212A), Veterans Benefit Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7218.

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 2306(d), VA may provide reimbursement for the cost of non-Government headstones or markers in an amount equal to the actual cost of the non-Government headstone or marker or the average actual cost of Government-furnished headstones or markers during the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased, whichever is less.

Section 8041 of Public Law 101–508 amended 38 U.S.C. 2306(d) to eliminate the payment of the monetary allowance in lieu of VA-provided headstone or marker for deaths occurring on or after November 1, 1990. However, in a precedent opinion (O.G.C. Prec. 17–90), VA's General Counsel held that there is no limitation period applicable to claims for benefits under the provisions of 38 U.S.C. 2306(d).

The average actual cost of Government-furnished headstones or markers during any fiscal year is determined by dividing the sum of VA costs during that fiscal year for procurement, transportation, and miscellaneous administration, inspection and support staff by the total number of headstones and markers procured by VA during that fiscal year and rounding to the nearest whole dollar amount.

The average actual cost of Government-furnished headstones or markers for Fiscal Year 2000 under the above computation method was $94. Therefore, effective October 1, 2000, the maximum rate of reimbursement for non-Government headstones or markers purchased during Fiscal Year 2001 is $94.

Cost of Living Adjustments

Under the provisions of 38 U.S.C. 5312 and section 306 of Public Law 95–588, VA is required to increase the benefit rates and income limitations in the pension and parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates and income limitations are also required to be published in the **Federal Register**.

The Social Security Administration has announced that there will be a 3.5 percent cost-of-living increase in Social Security benefits effective December 1, 2000. Therefore, applying the same percentage and rounding up in accordance with 38 CFR 3.29, the following increased rates and income limitations for the VA pension and parents' DIC programs will be effective December 1, 2000:

TABLE 1.—IMPROVED PENSION

Maximum annual rates
(1) Veterans permanently and totally disabled (38 U.S.C. 1521):
Veteran with no dependents, $9,304
Veteran with one dependent, $12,186
For each additional dependent, $1,586
(2) Veterans in need of aid and attendance (38 U.S.C. 1521):
Veteran with no dependents, $15,524
Veteran with one dependent, $18,405
For each additional dependent, $1,586
(3) Veterans who are housebound (38 U.S.C. 1521):
Veteran with no dependents, $11,372
Veteran with one dependent, $14,253
For each additional dependent, $1,586
(4) Two veterans married to one another, combined rates (38 U.S.C. 1521):
Neither veteran in need of aid and attendance or housebound, $12,186
Either veteran in need of aid and attendance, $18,405
Both veterans in need of aid and attendance, $23,979
Either veteran housebound, $14,253
Both veterans housebound, $16,322
One veteran housebound and one veteran in need of aid and attendance, $20,470
For each dependent child, $1,586
(5) Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (38 U.S.C. 1541):
Surviving spouse alone, $6,237
Surviving spouse and one child in his or her custody, $8,168
For each additional child in his or her custody, $1,586
(6) Surviving spouses in need of aid and attendance (38 U.S.C. 1541):
Surviving spouse alone, $9,973
Surviving spouse with one child in custody, $11,900
Surviving Spouse of Spanish-American War veteran alone, $10,618
Surviving Spouse of Spanish-American War veteran with one child in custody, $12,544
For each additional child in his or her custody, $1,586
(7) Surviving spouses who are housebound (38 U.S.C. 1541):
Surviving spouse alone, $7,625
Surviving spouse and one child in his or her custody, $9,551
For each additional child in his or her custody, $1,586
(8) Surviving child alone (38 U.S.C. 1542), $1,586

Reduction for income. The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 1521, 1541 and 1542).

Mexican border period and World War I veterans. The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this table shall be increased by $2,109. (38 U.S.C. 1521(g))

Parent's DIC

DIC shall be paid monthly to parents of a deceased veteran in the following amounts (38 U.S.C. 1315):

TABLE 2

One parent. If there is only one parent, the monthly rate of DIC paid to such parent shall be $445 reduced on the basis of the parent's annual income according to the following formula:
For each $1 of annual income:

The $445 Monthly Rate

Shall be reduced by	Which is more than	But not more than
$0.00	0	$800
.08	$800	10,584

No DIC is payable under this table if annual income exceeds $10,584.

One parent who has remarried. If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under Table 2 or under Table 4, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

Two parents not living together. The rates in Table 3 apply to (1) two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $320 reduced on the basis of each parent's annual income, according to the following formula:

TABLE 3

For each $1 of annual income:

The $320 Monthly Rate

Shall be reduced by	Which is more than	But not more than
$0.00	0	$800
.06	$800	900
.07	900	1,100
.08	1,100	10,584

No DIC is payable under this table if annual income exceeds $10,584.

Two parents living together or remarried parents living with spouses. The rates in Table 4 apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $300 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

TABLE 4

For each $1 of annual income:

The $300 monthly rate

Shall be reduced by	Which is more than	But not more than
$.00	0	$1,000
.03	$1,000	1,500
.04	1,500	1,900
.05	1,900	2,400
.06	2,400	2,900
.07	2,900	3,200
.08	3,200	14,228

No DIC is payable under this table if combined annual income exceeds $14,228.

The rates in this table are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in Table 2 for one parent.

Aid and attendance. The monthly rate of DIC payable to a parent under Tables 2 through 4 shall be increased by $239 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate. The monthly rate of DIC payable to any parent under Tables 2 through 4 shall not be less than $5.

TABLE 5.—SECTION 306 PENSION INCOME LIMITATIONS

(1) Veteran or surviving spouse with no dependents, $10,584 (Pub. L. 95–588, section 306(a)).
(2) Veteran with no dependents in need of aid and attendance, $11,084 (38 U.S.C. 1521(d) as in effect on December 31, 1978).
(3) Veteran or surviving spouse with one or more dependents, $14,228 (Pub. L. 95–588, section 306(a)).
(4) Veteran with one or more dependents in need of aid and attendance, $14,728 (38 U.S.C. 1521(d) as in effect on December 31, 1978).
(5) Child (no entitled veteran or surviving spouse), $8,651 (Pub. L. 95–588, section 306(a)).
(6) Spouse income exclusion (38 CFR 3.262), $3,377 (Pub. L. 95–588, section 306(a)(2)(B)).

TABLE 6.—OLD-LAW PENSION INCOME LIMITATIONS

(1) Veteran or surviving spouse without dependents or an entitled child, $9,265 (Pub. L. 95–588, section 306(b)).
(2) Veteran or surviving spouse with one or more dependents, $13,357 (Pub. L. 95–588, section 306(b)).

Spina Bifida Benefits

Section 421 of Public Law 104–204 added a new chapter 18 to title 38, United States Code, authorizing VA to provide certain benefits, including a monthly monetary allowance, to children born with spina bifida who are natural children of veterans who served in the Republic of Vietnam during the Vietnam era. Pursuant to 38 U.S.C. 1805(b)(3), spina bifida rates are subject to adjustment under the provisions of 38 U.S.C. 5312, which provides for the adjustment of certain VA benefit rates whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 *et seq.*). Effective December 1, 2000, spina bifida monthly rates are as follows:

Level I—$221
Level II—$770
Level III—$1,317

Dated: March 19, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–7619 Filed 3–27–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 66, No. 60
Wednesday, March 28, 2001

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.

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange (NYCE): Proposed Amendments to the NYCE Cotton No. 2 Futures Contract

Correction

In notice document 01–6868 beginning on page 15699 in the issue of Tuesday, March 20, 2001, make the following correction:

On page 15700, in the first column, in the third line, ''rice'' should be ''price''.

[FR Doc. C1–6868 Filed 3–27–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
March 28, 2001

Part II

Nuclear Regulatory Commission

10 CFR Parts 150, 170 and 171
Revision of Fee Schedules; Fee Recovery for FY 2001; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 150, 170 and 171

RIN 3150–AG73

Revision of Fee Schedules; Fee Recovery for FY 2001

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, which requires that the NRC recover approximately 98 percent of its budget authority in fiscal year (FY) 2001, less the amounts appropriated from the Nuclear Waste Fund (NWF) and the General Fund. The amount to be recovered for FY 2001 is approximately $453.3 million.

DATES: The comment period expires April 27, 2001. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered. Because OBRA–90 requires that NRC collect the FY 2001 fees by September 30, 2001, requests for extensions of the comment period will not be granted.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone 301–415–1678).

Comments may also be submitted via the NRC's interactive rulemaking Website (http://ruleforum.llnl.gov). This site provides the ability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, 301–415–5905; e-mail *CAG@nrc.gov.* Comments received may also be viewed and downloaded electronically via this interactive rulemaking Website.

With the exception of restricted information, documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by email to *pdr@nrc.gov.*

In addition to being available in ADAMS, the agency workpapers that support these proposed changes to 10 CFR Parts 170 and 171 may also be examined during the 30-day comment period at the NRC Public Document Room, Room O–1F22, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: Glenda Jackson, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Telephone 301–415–6057.

SUPPLEMENTARY INFORMATION:

I. Background

For FYs 1991 through 2000, OBRA–90, as amended, required that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the U.S. Department of Energy (DOE) administered Nuclear Waste Fund (NWF), by assessing fees. To address fairness and equity concerns raised by the NRC related to charging NRC license holders for agency expenses that do not provide a direct benefit to the licensee, the FY 2001 Energy and Water Development Appropriations Act amended OBRA–90 to decrease the NRC's fee recovery amount from 100 percent to 98 percent of the NRC's budget authority in FY 2001. The OBRA–90 amendment further decreases the fee recovery amount by an additional two percent per year beginning in FY 2002 until the fee recovery amount is 90 percent by FY 2005. In addition to the 2 percent reduction to the fee recovery amount, $3.2 million has been appropriated from the General Fund for activities related to regulatory reviews and assistance provided to other Federal agencies and States. The FY 2001 Energy and Water Development Appropriations Act states that this $3.2 million shall be excluded from license fee revenues. The total amount to be recovered for FY 2001 is approximately $453.3 million.

The NRC assesses two types of fees to meet the requirements of OBRA–90, as amended. First, license and inspection fees, established at 10 CFR Part 170 under the authority of the Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, recover the NRC's costs of providing special benefits to identifiable applicants and licensees. Examples of the services provided by the NRC for which these fees are assessed are the review of applications for new licenses, the review of applications for renewal of existing licenses, and the review of requests for license amendments. Second, annual fees, established in 10 CFR Part 171 under the authority of OBRA–90, recover generic and other regulatory costs not otherwise recovered through 10 CFR Part 170 fees.

II. Proposed Action

The NRC is proposing to amend its licensing, inspection, and annual fees to recover approximately 98 percent of its FY 2001 budget authority, including the budget authority for its Office of the Inspector General, less the appropriations received from the NWF and the General Fund. The NRC's total budget authority for FY 2001 is $487.4 million, of which $21.6 million has been appropriated from the NWF. In addition, $3.2 million has been appropriated from the General Fund for activities related to regulatory reviews and assistance provided to other Federal agencies and States. Based on the 98 percent fee recovery requirement, the NRC must collect approximately $453.3 million in FY 2001 through Part 170 licensing and inspection fees, Part 171 annual fees, and other offsetting receipts. The total amount to be recovered through fees and other offsetting receipts for FY 2001 is $6.3 million more than the amount estimated for recovery in FY 2000; however, the FY 2001 fee recovery amount is further reduced by a $3.1 million carryover from additional collections in FY 2000 that were unanticipated at the time the final FY 2000 fee rule was published. This leaves approximately $450.2 million to be recovered in FY 2001 through Part 170 licensing and inspection fees, Part 171 annual fees, and other offsetting receipts.

The NRC estimates that approximately $112.1 million will be recovered in FY 2001 from Part 170 fees and other offsetting receipts. The NRC also estimates a net adjustment for FY 2001 of approximately $0.4 million for payments received in FY 2001 for FY

2000 invoices. The remaining $337.7 million would be recovered through the Part 171 annual fees, compared to $341.0 million for FY 2000.

Table I summarizes the budget and fee recovery amounts for FY 2001.

TABLE I.—BUDGET AND FEE RECOVERY AMOUNTS FOR FY 2001

[Dollars in millions]

Total Budget Authority	$487.4
Less NWF	−21.6
Less General Fund	−3.2
Balance	462.6
Fee Recovery Rate (percent) for FY 2001	×98.0
Total Amount to be Recovered for FY 2001	453.3
Less Carryover from FY 2000	−3.1
Amount to be Recovered Through Fees and Other Receipts	450.2
Less Estimated Part 170 Fees and Other Receipts	−112.1
Part 171 Fee Collections Required	−338.1
Part 171 Billing Adjustments:	
Unpaid FY 2001 Invoices (estimated)	3.2
Less Payments Received in FY 2001 for Prior Year Invoices (estimated)	−3.6
Subtotal	−0.4
Adjusted Part 171 Collections Required	337.7

The final FY 2001 fee rule will be a ''major'' final action as defined by the Small Business Regulatory Enforcement Fairness Act of 1996. Therefore, the NRC's fees for FY 2001 would become effective 60 days after publication of the final rule in the **Federal Register**. The NRC will send an invoice for the amount of the annual fee to reactors and major fuel cycle facilities upon publication of the FY 2001 final rule. For these licensees, payment would be due on the effective date of the FY 2001 rule. Those materials licensees whose license anniversary date during FY 2001 falls before the effective date of the final FY 2001 rule would be billed for the annual fee during the anniversary month of the license at the FY 2000 annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the final FY 2001 rule would be billed for the annual fee at the FY 2001 annual fee rate during the anniversary month of the license, and payment would be due on the date of the invoice.

As a matter of courtesy, the NRC plans to continue mailing the proposed fee rules to all licensees, although, in accordance with its FY 1998 announcement, the NRC has discontinued mailing the final rule to all licensees as a cost-saving measure. Accordingly, the NRC does not plan to routinely mail the FY 2001 final rule or future final rules to licensees. However, the NRC will send the final rule to any licensee or other person upon request. To request a copy, contact the License Fee and Accounts Receivable Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, at 301–415–7554, or e-mail us at fees@nrc.gov. It is our intent to publish the final rule in late May or early June of 2001. In addition to publication in the **Federal Register**, the final rule will be available on the Internet at *http://ruleforum.llnl.gov*.

The NRC is proposing to make changes to 10 CFR Parts 170 and 171 as discussed in Sections A and B below.

A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, As Amended

The NRC is proposing to revise the hourly rates used to calculate fees and to adjust the 10 CFR Part 170 fees based on the revised hourly rates and the results of the NRC's biennial review of fees required by the Chief Financial Officer (CFO) Act of 1990 (Pub. L. 101–578, Nov. 15, 1990, 104 Stat 2838) (CFO Act). Additionally, the NRC is proposing to eliminate the fees currently assessed to Agreement State licensees who file revisions to the information submitted on their initial filing of NRC Form 241, ''Report of Proposed Activities in Non-Agreement States,'' and include the costs for these revisions in the application fees assessed for the initial Form 241. The NRC is also proposing to establish an annual registration fee of $450 to be assessed for Part 31 general licensees required to register certain types of generally licensed devices. These proposed revisions are further discussed below.

The proposed amendments are as follows:

1. Hourly Rates

The NRC is proposing to revise the two professional hourly rates for NRC staff time established in § 170.20. These proposed rates would be based on the number of FY 2001 direct program full time equivalents (FTEs) and the FY 2001 NRC budget, excluding direct program support costs and NRC's appropriations from the NWF and the General Fund. These rates are used to determine the Part 170 fees. The proposed hourly rate for the reactor program is $150 per hour ($266,997 per direct FTE). This rate would be applicable to all activities for which fees are assessed under § 170.21 of the fee regulations. The proposed hourly rate for the nuclear materials and nuclear waste program is $144 per hour ($255,563 per direct FTE). This rate would be applicable to all activities for which fees are assessed under § 170.31 of the fee regulations. In the FY 2000 final fee rule, the reactor and materials program rates were $144 and $143, respectively. The proposed increases are primarily due to the Government-wide pay increase in FY 2001.

The method used to determine the two professional hourly rates is as follows:

a. Direct program FTE levels are identified for the reactor program and the nuclear material and waste program.

b. Direct contract support, which is the use of contract or other services in

support of the line organization's direct program, is excluded from the calculation of the hourly rates because the costs for direct contract support are charged directly through the various categories of fees.

c. All other program costs (i.e., Salaries and Benefits, Travel) represent ''in-house'' costs and are to be collected by dividing them uniformly by the total number of direct FTEs for the program. In addition, salaries and benefits plus contracts for non-program direct management and support, and for the Office of the Inspector General, are allocated to each program based on that program's direct costs. This method results in the following costs which are included in the hourly rates.

TABLE II.—FY 2001 BUDGET AUTHORITY TO BE INCLUDED IN HOURLY RATES

	Reactor materials	Materials program
Direct Program Salaries & Benefits	$107.8M	$31.3M
Overhead Salaries & Benefits, Program Travel and Other Support	56.1M	15.0M
Allocated Agency Management and Support	100.8M	28.5M
Subtotal	264.7M	74.8M
Less offsetting receipts	−0.1M	.....
Total Budget Included in Hourly Rate	264.6M	74.8M
Program Direct FTEs	991.0	292.7
Rate per Direct FTE	266,997	255,563
Professional Hourly Rate (Rate per direct FTE divided by 1,776 hours)	150	144

As shown in Table II, dividing the $264.6 million (rounded) budgeted amount included in the hourly rate for the reactor program by the reactor program direct FTEs (991.0) results in a rate for the reactor program of $266,997 per FTE for FY 2001. The Direct FTE Hourly Rate for the reactor program would be $150 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE ($266,997) by the number of productive hours in one year (1,776 hours) as set forth in the revised OMB Circular A–76, ''Performance of Commercial Activities.'' Similarly, dividing the $74.8 million (rounded) budgeted amount included in the hourly rate for the nuclear materials and nuclear waste program by the program direct FTEs (292.7) results in a rate of $255,563 per FTE for FY 2001. The Direct FTE Hourly Rate for the materials program would be $144 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE ($255,563) by the number of productive hours in one year (1,776 hours).

2. Fee Adjustments

The NRC is proposing to adjust the current part 170 fees in §§ 170.21 and 170.31 to reflect both the changes in the revised hourly rates and the results of the biennial review of part 170 fees required by the CFO Act. To comply with the requirements of the CFO Act, the NRC has evaluated historical professional staff hours used to process a new license application for those materials licensees whose fees are based on the average cost method, or ''flat'' fees. This review also included new license and amendment applications for import and export licenses.

Evaluation of the historical data shows that fees based on the average number of professional staff hours required to complete materials licensing actions should be increased in some categories and decreased in others, as described below, to more accurately reflect current costs incurred in completing these licensing actions. The data for the average number of professional staff hours needed to complete new licensing actions was last updated in FY 1999 (64 FR 31448; June 10, 1999). Thus, the revised average professional staff hours reflect the changes in the NRC licensing review program that have occurred since FY 1999.

In summary, the proposed licensing fees reflect an increase in average time for new license applications for seven of 33 materials fee categories included in the biennial review, a decrease in average time for five fee categories, and the same average time for the remaining 21 fee categories. Similarly, the average time for applications for new export and import licenses and for amendments to export and import licenses remained the same for eight fee categories in §§ 170.21 and 170.31, and decreased for two other fee categories.

The proposed licensing fees are based on the revised average professional staff hours needed to process the licensing actions multiplied by the proposed professional hourly rate for FY 2001. The amounts of the materials licensing ''flat'' fees are rounded as follows: fees under $1,000 are rounded to the nearest $10, fees that are greater than $1,000 but less than $100,000 are rounded to the nearest $100, and fees that are greater than $100,000 are rounded to the nearest $1,000.

The proposed licensing ''flat'' fees are applicable to fee categories K.1 through K.5 of § 170.21, and fee categories 1C, 1D, 2B, 2C, 3A through 3P, 4B through 9D, 10B, 15A through 15E, and 16 of § 170.31. An additional proposed change to Category 16 is discussed in item 3. below. Applications filed on or after the effective date of the final rule would be subject to the revised fees in this proposed rule.

3. Fees for Revisions to Initial Reciprocity Applications

The NRC has taken several actions in the past few years to streamline and stabilize fees assessed to materials user licensees subject to ''flat'' fees. These actions included elimination of the inspection, renewal, and amendment fees from Part 170, and inclusion of the costs for these activities in the Part 171 annual fees. Materials user licensees affected by these changes have responded favorably to the elimination of multiple types of individual fees.

The NRC is proposing a similar streamlining action for certain submittals from Agreement State licensees operating in areas under NRC jurisdiction under the Part 150 reciprocity provisions. Currently, a Part 170 fee of $1,200 is charged for each initial filing of NRC Form 241, ''Report of Proposed Activities in Non-Agreement States,'' and an additional fee of $200 is charged for each revision to the information submitted on the initial NRC Form 241. Revisions are filed to request approval for work locations, radioactive materials, or work

activities different from those submitted on the initial NRC Form 241. In FY 2000, only $23,000 was collected for 115 revisions.

The NRC is proposing to eliminate the revision fees and include the costs for processing them in the fee assessed for each initial reciprocity application. Under this proposal, the reciprocity applicants would no longer be required to submit payments with their revision requests, and the NRC's administrative burden of processing the revisions for fee collection purposes would be eliminated. This proposed change plus the increase in the hourly rate would result in an increase in the application fee, from $1,200 to $1,400. The costs of the reciprocity program would still be recovered from those receiving the benefit of the NRC's reciprocity activities. It is the NRC's belief that the nominal increase to the application fee and any potential inequities that might result because not all reciprocity licensees file revisions during the year are outweighed by the efficiencies to be gained by both the reciprocity applicants and the NRC in streamlining the process.

A conforming revision to 10 CFR 150.20(b)(2) would also be made to reflect this proposed change.

4. Fees for General License Registrations

The NRC published a proposed rule in the **Federal Register** on July 26, 1999 (64 FR 40295), stating its intent to amend current regulations governing the use of byproduct material in certain measuring, gauging, or controlling devices. The proposed amendments included adding explicit requirements for a registration process under 10 CFR 31.5 for certain generally licensed devices; establishing a registration fee; modifying reporting, record-keeping, and labeling requirements; and clarifying which provisions of the regulations apply to all general licenses for byproduct material. The NRC stated in the proposed rule that the registration fee would recover the costs for obtaining and maintaining information associated with the devices subject to the registration requirement, processing and reviewing the registrations, and for inspections and follow-up efforts expected to be made as a result of the registration process identifying noncompliance with existing regulations. The fee would be based on the average cost of the program for each of the licensees registering devices. Some of the general licensees, such as non-profit educational institutions, would be exempt from the fee under § 170.11. Costs not recovered from this small segment of the general licensees registering devices would continue to be recovered from annual fees paid by current holders of specific licenses. The NRC also stated in the proposed rule that the requirement for the registration fee would be effective after the initial registration requests are sent for response under § 31.5(c). In this manner, the first round of registrations will be complete before the requirement for the registration fee goes into effect.

The NRC published a final rule on December 18, 2000 (65 FR 79162), amending 10 CFR Parts 30, 31, and 32 to explicitly require that certain general licensees register their generally licensed devices with the NRC each year and pay the appropriate registration fee. Therein the NRC stated that the final fee, estimated at approximately $440 to $450, would be established in the FY 2001 fee rulemaking based on that year's budgeted costs for the program, the new FTE rate, and the estimated number of general licensees required to register.

The NRC currently estimates that approximately 4300 general licensees will be required to register their generally licensed devices. Based on the estimated number of registrants, current resource estimates, and the FY 2001 FTE rate, the proposed registration fee is $450. The registration fee would be imposed beginning with the first re-registration of devices currently in use. The registration fee would be required for each annual re-registration of the devices, and for all new registrations of devices acquired after the registration program is fully implemented.

Because this is a ''flat'' fee based on average cost, it will be reviewed biennially as required by the CFO Act. The registration fee established in the FY 2001 final fee rule will not change until the next biennial review of fees in FY 2003.

5. Fee Waivers

In the recent past, several requests for Part 170 fee exemptions have been filed by licensees and various organizations who submit topical reports or other documents to the NRC for review. Part 170 currently provides that fees will not be assessed for requests or reports submitted to the NRC in response to an NRC inquiry to resolve an identified safety, safeguards, or environmental issue; or to assist the NRC in developing a rule, regulatory guide, policy statement, generic letter or bulletin; or as a means of exchanging information between industry organizations and the NRC for the purpose of supporting generic regulatory improvements or efforts. Many of the fee exemption requests have been denied because the submittals have not met the intent of the waiver provision. For example, several fee waiver requests were based on the industry's future use of the reports, rather than these reports being submitted, reviewed, and approved for the purpose of NRC's generic regulatory improvements.

In the statement of considerations for the FY 1994 fee rule (59 FR 36895; July 20, 1994) which incorporated this fee waiver provision, the NRC stated that it believed the costs for some requests or reports filed with the NRC are more appropriately captured in the Part 171 annual fees rather than assessing specific fees under Part 170. The statement of considerations continued that these reports, although submitted by a specific organization, support NRC's development of generic guidance and regulations and resolution of safety issues applicable to a class of licensee. To clarify the intent of the fee waiver provision, the NRC is modifying the current criterion 3. of Footnote 4 to § 170.21 and criterion (c) of Footnote 5 to § 170.31 to specifically state that the review and approval of the reports must support NRC's generic regulatory improvements or efforts. In addition, criteria 1., 2., and 3. of Footnote 4 to § 170.21 would be redesignated as criteria (a), (b), and (c).

In summary, the NRC is proposing to amend 10 CFR Part 170 to—

1. Revise the material and reactor program FTE hourly rates;

2. Revise the licensing fees to be assessed to reflect the revised hourly rates and to comply with the CFO Act requirement that fees be reviewed biennially and revised as necessary to reflect the cost to the agency;

3. Eliminate fees for Agreement State licensees who submit revisions to their initial requests for reciprocity in States under NRC jurisdiction, and incorporate these costs into the initial reciprocity application fee;

4. Establish registration fees to be assessed for each registration or re-registration of generally licensed devices under 10 CFR 31.5, beginning with the first re-registration of those generally licensed devices currently in use; and

5. Clarify that the fee waiver provisions of the current criterion 3. of Footnote 4 to § 170.21 and criterion (c) of Footnote 5 to § 170.31 apply only to requests/reports submitted to the NRC for the purpose of supporting NRC's generic regulatory improvements or efforts, and redesignate criteria 1., 2., and 3., of Footnote 4 to § 170.21 as criteria (a), (b), and (c).

B. Amendments to 10 CFR Part 171: Annual Fees for Reactor Licenses, and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC

The NRC proposes to revise the annual fees for FY 2001 and revise the current process for providing NRC Form 526 to licensees for purposes of certifying that they qualify as a small entity. The proposed amendments are as follows.

1. Annual Fees

The NRC is proposing to establish rebaselined annual fees for FY 2001. The Commission's policy commitment, made in the statement of considerations accompanying the FY 1995 fee rule (60 FR 32225; June 20, 1995) and further explained in the statement of considerations accompanying the FY 1999 fee rule (64 FR 31448; June 10, 1999), establishes that base annual fees will be re-established (rebaselined) at least every third year, and more frequently if there is a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licensees. The fees were last rebaselined in FY 1999. After carefully considering all factors, including the changes to the amount of the budget allocated to classes of licensees, and weighing the complex issues related to both fairness and stability of fees, the Commission has determined that it is appropriate to rebaseline the annual fees this year. Rebaselining fees would result in reduced annual fees for a majority of the categories of licenses and increased annual fees for other categories.

Although the NRC is sensitive to the effects the rebaselined fees will have on those licensees with fee increases, establishing new baseline annual fees this year would result in a more precise relationship between annual fees and NRC costs of providing services. It thus would constitute one means to fairly and equitably allocate costs among the NRC's licensees.

The annual fees in §§ 171.15 and 171.16 would be revised for FY 2001 to recover approximately 98 percent of the NRC's FY 2001 budget authority, less fees collected under 10 CFR Part 170 and funds appropriated from the NWF and the General Fund. The total amount to be recovered through annual fees for FY 2001 is $337.7 million, compared to $341.0 million for FY 2000.

The proposed FY 2001 annual fees would increase for some categories of licensees and decrease for others from the previous year. The decreases in annual fees range from approximately 0.2 percent for operating power reactor licensees (including the spent fuel storage/reactor decommissioning annual fee), to approximately 29.0 percent for uranium recovery licensees. The increases in annual fees range from approximately 2.6 percent for materials licenses authorizing distribution of radiopharmaceuticals, to approximately 165.2 percent for transportation quality assurance program approvals authorizing use only.

Factors affecting the changes to the annual fee amounts include changes in budgeted costs affecting the classes of licensees, the reduction in the fee recovery rate from 100 percent for FY 2000 to 98 percent for FY 2001, the estimated Part 170 collections for the various classes of licensees, a $3.1 million carryover from additional collections in FY 2000 that were unanticipated at the time the final FY 2000 fee rule was published, the increased hourly rates, decreases in the numbers of licensees for certain categories of licenses, and, for the materials user class, the results of the biennial review of Part 170 fees required by the CFO Act. The biennial review shows that the average number of professional hours to conduct inspections and to review new license applications for materials licenses increased for some fee categories, decreased for others, or remained the same. The average time to conduct inspections and to review new license applications for the materials user license fee categories serve as accurate measures of the complexity of the licenses and, therefore, are used to allocate the materials budget for rebaselining the annual fees. Increases in the average professional time for inspections and reviews of new license applications result in higher annual fees for the affected fee categories, assuming all else remains the same (e.g., no loss of licensees).

The increase in annual fees (from $2,300 to $6,100) for transportation quality assurance approvals authorizing use only, which would have the largest percentage increase, is due in part to the allocation of budgeted costs for the enhanced participatory Part 71 rulemaking, headquarters and regional allegation and enforcement follow-up activities, and the Office of Nuclear Material Safety and Safeguards' risk study activities. In addition, there has been a decrease in the amount of budgeted costs allocated for Part 71 vendor inspections while the allocation of budgeted costs for quality assurance reviews remained about the same. The ratio of the budgeted costs for these activities is currently used to allocate the total annual fee amount for the transportation class, less the amount allocated to DOE for its certificates of compliance, between the quality assurance approvals authorizing use only and those that authorize use and fabrication/design. As a result of the decrease in budgeted costs for Part 71 vendor inspections, a larger percentage of the total annual fee amount for the transportation class would be allocated to quality assurance approvals authorizing use only than in the past.

Table III below shows the proposed rebaselined annual fees for FY 2001 for representative categories of licensees.

TABLE III.—REBASELINED ANNUAL FEES FOR FY 2001

Class of licensees	Proposed FY 2001 annual fee
Power Reactors (including Spent Fuel Storage/Reactor Decommissioning annual fee)	$2,809,000
Spent Fuel Storage/Reactor Decommissioning	275,000
Nonpower Reactors	74,000
High Enriched Uranium Fuel Facility	3,551,000
Low Enriched Uranium Fuel Facility	1,191,000
UF_6 Conversion Facility	510,000
Uranium Mills	94,300
Transportation:	
Users/Fabricators	62,500
Users Only	6,100
Typical Materials Users:	
Radiographers	12,500

TABLE III.—REBASELINED ANNUAL FEES FOR FY 2001—Continued

Class of licensees	Proposed FY 2001 annual fee
Well Loggers	8,800
Gauge Users	2,400
Broad Scope Medical	24,200

The annual fees assessed to each class of licensees include a surcharge to recover those NRC budgeted costs that are not directly or solely attributable to the classes of licensees, but must be recovered from licensees to comply with the requirements of OBRA–90, as amended. Based on the amendment to OBRA–90 that reduced the NRC's fee recovery requirement by 2 percent for FY 2001, from 100 percent to 98 percent of the NRC's budget authority, the total surcharge costs will be reduced by about $9.3 million. The total FY 2001 budgeted costs for these activities and the reduction to these amounts for fee recovery purposes are shown in Table IV. All dollar amounts in the Table are rounded.

TABLE IV.—SURCHARGE COSTS

[Dollars in millions]

Category of costs	FY 2001 budgeted costs
1. Activities not attributable to an existing NRC licensee or class of licensee:	
a. International activities	$6.0
b. Agreement State oversight	7.1
c. Low-level waste disposal generic activities	1.7
d. Site decommissioning management plan activities not recovered under Part 170	7.3
2. Activities not assessed Part 170 licensing and inspection fees or Part 171 annual fees based on existing law or Commission policy:	
a. Fee exemption for nonprofit educational institutions	8.1
b. Licensing and inspection activities associated with other Federal agencies	3.9
c. Costs not recovered from small entities under 10 CFR 171.16(c)	5.6
3. Activities supporting NRC operating licensees and others:	
a. Regulatory support to Agreement States	14.4
b. Generic decommissioning/reclamation (except those related to power reactors)	3.4
Total surcharge costs	57.6
Less 2 percent of NRC's FY 2001 total budget (minus NWF and General Fund amounts)	−9.3
Total Surcharge Costs to be Recovered	48.3

As shown in Table IV, $48.3 million would be the total surcharge cost allocated to the various classes of licensees for FY 2001. The NRC would continue to allocate the surcharge costs, except Low-Level Waste (LLW) surcharge costs, to each class of licensees based on the percent of budget for that class. The NRC would continue to allocate the LLW surcharge costs based on the volume of LLW disposed of by certain classes of licensees. The proposed surcharge costs allocated to each class would be included in the annual fee assessed to each licensee. The FY 2001 proposed surcharge costs that would be allocated to each class of licensees are shown in Table V.

TABLE V.—ALLOCATION OF SURCHARGE

[Dollar amounts in millions]

	LLW surcharge		Non-LLW surcharge		Total surcharge amount
	Percent	Amount	Percent	Amount	
Operating Power Reactors	74	$1.3	79.1	$36.9	$38.2
Spent Fuel Storage/Reactor Decomm	.....	.....	9.2	4.3	4.3
Nonpower Reactors	.....	.....	0.1	0.0	0.0
Fuel Facilities	8	0.1	5.3	2.5	2.6
Materials Users	18	0.3	3.9	1.8	2.1
Transportation	.....	.....	1.2	0.5	0.5
Rare Earth Facilities	.....	.....	0.2	0.1	0.1
Uranium Recovery	.....	.....	1.0	0.4	0.4
Total surcharge	.....	1.7	.....	46.6	48.3

The budgeted costs allocated to each class of licensees and the calculations of the rebaselined fees are described in A through H below. The workpapers which support this proposed rule show in detail the allocation of NRC's

budgeted resources for each class of licensee and how the fees are calculated. The workpapers are available electronically at the NRC's Public Electronic Reading Room on the Internet at Website address *http://www.gov/NRC/ADAMS/index.html.* During the 30-day public comment period, the workpapers may also be examined at the NRC Public Document Room located at One White Flint North, Room O–1F22, 11555 Rockville Pike, Rockville, MD 20852–2738.

Because the FY 2001 fee rule will be a ''major'' final action as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC's fees for FY 2001 would become effective 60 days after publication of the final rule in the **Federal Register**. The NRC will send an invoice for the amount of the annual fee upon publication of the FY 2001 final rule to reactors and major fuel cycle facilities. For these licensees, payment would be due on the effective date of the FY 2001 rule. Those materials licensees whose license anniversary date during FY 2001 falls before the effective date of the FY 2001 final rule would be billed for the annual fee during the anniversary month of the license, and continue to pay annual fees at the FY 2000 rate in FY 2001. However, those materials licensees whose license anniversary date falls on or after the effective date of the FY 2001 final rule would be billed for the annual fee at the FY 2001 rate during the anniversary month of the license, and payment would be due on the date of the invoice.

a. *Fuel Facilities.* The FY 2001 budgeted costs to be recovered in annual fees assessed to the fuel facility class of licensees is approximately $17.6 million. This amount includes the LLW and other surcharges allocated to the fuel facility class. The costs are allocated to the individual fuel facility licensees based on the fuel facility matrix established in the FY 1999 final fee rule (64 FR 31448; June 10, 1999). In this matrix, licensees are grouped into five categories according to their licensed activities (i.e., nuclear material enrichment, processing operations, and material form) and according to the level, scope, depth of coverage, and rigor of generic regulatory programmatic effort applicable to each category from a safety and safeguards perspective. This methodology can be applied to determine fees for new and current licensees, licensees in unique license situations, and certificate holders.

The methodology allows for changes in the number of licensees or certificate holders, licensed-certified material/activities, and total programmatic resources to be recovered through annual fees. When a license or certificate is modified, this fuel facility fee methodology may result in a change in fee category and may have an effect on the fees assessed to other licensees and certificate holders. For example, if a fuel facility licensee amended its license/ certificate in such a way that it resulted in the licensee not being subject to Part 171 fees applicable to fuel facilities, the budget for the safety and/or safeguards component would be spread among the remaining licensees/ certificate holders, and result in a higher fee for those remaining in that fee category.

The methodology is applied as follows. First, a fee category is assigned based on the nuclear material and activity authorized by the license or certificate. Although a licensee/ certificate holder may elect not to fully utilize a license/certificate, it is still used as the source for determining authorized nuclear material possession and use/activity. Next, the category and license/certificate information are used to determine where the licensee/ certificate holder fits into the matrix. The matrix depicts the categorization of licensee/certificate holders by authorized material types and use/ activities and the relative programmatic effort associated with each category. The programmatic effort (expressed as a value in the matrix) reflects the safety and safeguards risk significance associated with the nuclear material and use/activity and the commensurate generic regulatory program (i.e., scope, depth, and rigor).

The effort factors for the various subclasses of fuel facility licensees are summarized in the table below.

TABLE VI.—EFFORT FACTORS FOR FUEL FACILITIES

Facility type	Number of facilities	Effort factors	
		Safety	Safeguards
High Enriched Uranium Fuel	2	91 (33.1%)	76 (54.7%)
Enrichment	2	70 (25.5%)	34 (24.5%)
Low Enriched Uranium Fuel	4	88 (32.0%)	24 (17.3%)
UF_6 Conversion	1	8 (2.9%)	3 (2.2%)
Limited Operations Facility	1	12 (4.4%)	0 (0%)
Others	1	6 (2.2%)	2 (1.4%)

Applying these factors to the safety, safeguards, and surcharge components of the $17.6 million total annual fee amount for the fuel facility class results in the proposed annual fees for each licensee within the subcategories of this class summarized in the table below.

TABLE VII.—PROPOSED ANNUAL FEES FOR FUEL FACILITIES

Facility type	Proposed FY 2001 Annual Fee
High Enriched Uranium Fuel	$3,551,000
Uranium Enrichment	2,211,000
Low Enriched Uranium	1,191,000
UF_6 Conversion	510,000
Limited Operations Facility	468,000
Others	340,000

b. *Uranium Recovery Facilities.* The FY 2001 budgeted cost, including surcharge costs, to be recovered through annual fees assessed to the uranium recovery class is approximately $1.5 million. Of this amount, $654,000 would be assessed to DOE to recover the costs associated with DOE sites under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). The remaining $864,000 would be recovered through annual fees assessed to conventional mills, solution mining uranium mills, and mill tailings disposal facilities. The costs are allocated to the individual uranium recovery licensees in these categories based on the uranium recovery matrix established in the FY 1999 final fee rule (64 FR 31448; June 10, 1999).

The methodology for establishing Part 171 annual fees for uranium recovery licensees has not changed and is as follows.

(1) The methodology identifies three categories of licensees: conventional uranium mills (Class I facilities), solution mining uranium mills (Class II facilities), and mill tailings disposal facilities (11e(2) disposal facilities). Each of these categories benefits from the generic uranium recovery program efforts (e.g., rulemakings, staff guidance documents, etc.);

(2) The matrix relates the category and the level of benefit by program element and subelement;

(3) The two major program elements of the generic uranium recovery program are activities related to facility operations and those related to facility closure;

(4) Each of the major program elements was further divided into three subelements;

(5) The three major subelements of generic activities associated with uranium facility operations are regulatory efforts related to the operation of mills, handling and disposal of waste, and prevention of groundwater contamination. The three major subelements of generic activities associated with uranium facility closure are regulatory efforts related to decommissioning of facilities and land clean-up, reclamation and closure of tailings impoundments, and groundwater clean-up. Weighted values were assigned to each program element and subelement considering health and safety implications and the associated effort to regulate these activities. The applicability of the generic program in each subelement to each uranium recovery category was qualitatively estimated as either significant, some, minor, or none.

The relative weighted factors per facility type for the various subclasses of uranium recovery licensees are as follows:

TABLE VIII.—WEIGHTED FACTORS FOR URANIUM RECOVERY LICENSES

Facility type	Level of benefit			
	Number of facilities	Category weight	Total weight	
			Value	Percent
Class I (conventional mills)	3	770	2310	33
Class II (in-situ mills)	[1]6.5	645	4193	59
11e(2) disposal	1	475	475	7
11e(2) disposal incident to existing tailings sites	1	75	75	1

[1] The FY 2001 annual fee would be prorated 50 percent for Cogema Mining's License SUA–1341 based on its November 10, 2000, request that the license be amended for possession only.

Applying these factors to the $864,000 in budgeted costs to be recovered results in the following proposed annual fees.

TABLE IX.—ANNUAL FEES FOR URANIUM RECOVERY LICENSES

Facility type	Proposed FY 2001 annual fee
Class I (conventional mills).	$94,300
Class II (in-situ mills)	79,000
11e(2) disposal	58,200
11e(2) disposal incidental to existing tailings sites.	9,200

The proposed FY 2001 annual fees for Class I and Class II facilities (conventional mills and in-situ mills), would drop below the $100,000 threshold currently established in § 171.19 for quarterly billing, and therefore, under the current requirements these licensees would be subject to annual fee billing based on the anniversary date of their license for FY 2001. In FY 1999 the reverse situation occurred for these licensees; i.e., in FY 1998 the annual fees were below the $100,000 quarterly billing threshold and the licensees were billed on the license anniversary date, but beginning in FY 1999 the licensees became subject to quarterly billing for the annual fees because the fees were over the $100,000 threshold. Because the annual fees for these licensees have been close to the $100,000 threshold, small changes to the annual fee amounts have resulted in frequent changes to their annual fee billing schedule. To provide stability in the billing schedule, the NRC is proposing to revise § 171.19 to establish a quarterly billing schedule for the Class I and Class II licensees, regardless of the annual fee amount. This would provide these licensees with a consistent, predictable schedule for paying their annual fees. As provided in § 171.19(b), if the amounts collected in the first three quarters of FY 2001 exceed the amount of the revised annual fee, the overpayment will be refunded.

c. *Power Reactors.* The approximately $263.5 million in budgeted costs to be recovered through FY 2001 annual fees assessed to operating power reactors would be divided equally among the 104 operating power reactors. This results in a proposed FY 2001 annual fee of $2,534,000 per reactor. Additionally, each operating reactor would be assessed the proposed spent fuel storage/reactor decommissioning annual fee, which for FY 2001 is $275,000. This would result in a total FY 2001 annual fee of $2,809,000 for each operating power reactor.

d. *Spent Fuel Storage/Reactor Decommissioning.* For FY 2001, budgeted costs of approximately $33.3 million for spent fuel storage/reactor decommissioning are to be recovered through annual fees assessed to Part 50 power reactors, except those reactors in decommissioning who do not have spent fuel on site, and to Part 72 licensees who do not hold a Part 50 license. The costs would be divided equally among the 121 licensees, resulting in a proposed FY 2001 annual fee of $275,000 per licensee.

e. *Non-power Reactors.* Approximately $296,000 in budgeted costs is to be recovered through annual fees assessed to the non-power reactor class of licensees for FY 2001. This amount would be divided equally among the four non-power reactors subject to annual fees. This results in a proposed FY 2001 annual fee of $74,000 for each licensee.

f. *Rare Earth Facilities.* The FY 2001 budgeted costs of approximately $89,600 for rare earth facilities to be recovered through annual fees would be divided equally among the three licensees who have a specific license for receipt and processing of source material. The result is a proposed FY 2001 annual fee of $29,900 for each rare earth facility.

g. *Materials Users.* To equitably and fairly allocate the $23.1 million in FY 2001 budgeted costs to be recovered in

annual fees assessed to the approximately 5000 diverse materials users and registrants, the NRC has continued to use the FY 1999 methodology to establish baseline annual fees for this class. The annual fees are based on the Part 170 application fees and an estimated cost for inspections. Because the application fees and inspection costs are indicative of the complexity of the license, this approach continues to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licensees based on how much it costs the NRC to regulate each category. The fee calculation also continues to consider the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licensees. The annual fee for these categories of licensees is developed as follows.

Annual fee = Constant × [Application Fee + (Average Inspection Cost divided by Inspection Priority)]+ Inspection Multiplier × (Average Inspection Cost divided by Inspection Priority) + Unique Category Costs.

The constant is the multiple necessary to recover approximately $15.1 million in general costs and is 0.96 for FY 2001. The inspection multiplier is the multiple necessary to recover approximately $5.7 million in inspection costs for FY 2001, and is 1.2 for FY 2001. The unique category costs are any special costs that the NRC has budgeted for a specific category of licensees. For FY 2001, unique costs of approximately $143,000 were identified for the medical development program, an amount attributable to medical licensees.

The annual fee assessed to each licensee also includes a share of the $1.8 million in surcharge costs allocated to the materials user class of licensees and, for certain categories of these licenses, a share of the approximately $300,000 in LLW surcharge costs allocated to the class. The proposed annual fee for each fee category is shown in § 171.16(d).

h. *Transportation.* Of the approximately $3.9 million in FY 2001 budgeted costs to be recovered through annual fees assessed to the transportation class of licensees, approximately $1.1 million would be recovered from annual fees assessed to DOE based on the number of Part 71 Certificates of Compliance that it holds. Of the remaining $2.8 million, approximately 26 percent would be allocated to the 83 quality assurance plans authorizing use only and the 36 quality assurance plans authorizing use and design/fabrication. The remaining 74 percent would be allocated only to the 36 quality assurance plans authorizing use and design/fabrication. This results in a proposed annual fee of $6,100 for each of the holders of quality assurance plans that authorize use only, and a proposed annual fee of $62,500 for each of the holders of quality assurance plans that authorize use and design/fabrication.

3. Small Entity Annual Fees

In the FY 2000 fee rule (65 FR 36946; June 12, 2000), the NRC stated that it would re-examine small entity fees each year that annual fees are rebaselined. Accordingly, the NRC has re-examined the small entity fees and does not believe that a change to the small entity fees is warranted for FY 2001. The NRC revised the small entity fees in FY 2000, for the first time since they were introduced in FY 1991 and FY 1992, based on the 25 percent increase in average total fees assessed to other materials licensees since the small entity fees were first established and on changes that had occurred in the fee structure for materials licensees over time (65 FR 36956, 36957). The NRC does not consider the approximately 13 percent decrease in the average FY 2001 fees for other materials licensees to be significant enough to warrant another change to the small entity fees this year.

Unlike the annual fees assessed to other licensees, the small entity fees are not designed to recover the agency costs associated with particular licensees. Rather, they are designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them. The costs not recovered from small entities must be recovered from other licensees. The current small entity fees of $500 and $2,300 provide considerable relief to many small entities.

In the future the NRC plans to re-examine small entity fees every two years, in the same years in which it conducts the biennial review of fees as required by the CFO Act, instead of each year that annual fees are rebaselined as indicated in the FY 2000 fee rule. The annual fees for materials users now include the cost of amendments, renewals, and inspections. However, at a maximum, annual fees are rebaselined every three years, but may be rebaselined earlier if warranted. Therefore, reviewing the small entity fees only when the annual fees are rebaselined results in a variable schedule for the re-examinations and any potential changes to the fees. Re-examining the small entity annual fees every two years, on the same schedule as the biennial review under the CFO Act, provides a routine, predictable schedule and allows licensees to anticipate when potential changes to these fees might occur.

4. Other Amendments

The NRC currently sends an NRC Form 526, ''Certification of Small Entity Status for the Purposes of Annual Fees Imposed Under 10 CFR Part 171,'' with each annual fee invoice issued to materials licensees. Although the instructions on the form state that it is to be filed only by those licensees who qualify as a small entity under NRC's size standards, the NRC has received many improperly filed forms. When contacted, many of these licensees have indicated they completed the form because it was enclosed with the annual fee invoice. In an effort to minimize the number of improperly filed forms, the NRC is proposing to discontinue mailing the form with each annual fee invoice. Instead, licensees would be able to access NRC Form 526 on the NRC's external web site at *http://www.nrc.gov.* Those licensees that qualify as a ''small entity'' under the NRC size standards at 10 CFR Part 2.810 would be able to complete the form in accordance with the instructions provided, and submit the completed form and the appropriate payment to the address provided on the invoice. For licensees who cannot access the NRC's external web site, NRC Form 526 could be obtained either through the local point of contact listed in the NRC's ''Materials Annual Fee Billing Handbook,'' NUREG/BR–0238, which is enclosed with each annual fee invoice, by calling the NRC's fee staff at 301–415–7554, or by e-mailing the fee staff at *fees@nrc.gov.*

In summary, the NRC is proposing to—

1. Establish new rebaselined annual fees for FY 2001;

2. Revise § 171.16(c)(2) to eliminate the mailing of NRC Form 526 with the annual fee invoice to individual materials licensees;

3. Revise § 171.19 to establish a quarterly annual fee billing schedule for Class I and Class II uranium recovery licensees; and

4. Re-examine the small entity fees every two years, on the same schedule as the biennial review of fees required by the CFO's Act.

III. Plain Language

The Presidential Memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the Federal government's writing be in

plain language (63 FR 31883; June 10, 1998). The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments on the language used should be sent to the NRC as indicated under the **ADDRESSES** heading.

IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. In this proposed rule, the NRC is amending the licensing, inspection, and annual fees charged to its licensees and applicants as necessary to recover approximately 98 percent of its budget authority in FY 2001 as is required by the Omnibus Budget Reconciliation Act of 1990, as amended. This action does not constitute the establishment of a standard that contains generally applicable requirements.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared for the proposed regulation. By its very nature, this regulatory action does not affect the environment and, therefore, no environmental justice issues are raised.

VI. Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

VII. Regulatory Analysis

With respect to 10 CFR Part 170, this proposed rule was developed pursuant to Title V of the Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) and the Commission's fee guidelines. When developing these guidelines the Commission took into account guidance provided by the U.S. Supreme Court on March 4, 1974, in *National Cable Television Association, Inc.* v. *United States,* 415 U.S. 36 (1974) and *Federal Power Commission* v. *New England Power Company,* 415 U.S. 345 (1974). In these decisions, the Court held that the IOAA authorizes an agency to charge fees for special benefits rendered to identifiable persons measured by the ''value to the recipient'' of the agency service. The meaning of the IOAA was further clarified on December 16, 1976, by four decisions of the U.S. Court of Appeals for the District of Columbia: *National Cable Television Association* v. *Federal Communications Commission,* 554 F.2d 1094 (D.C. Cir. 1976); *National Association of Broadcasters* v. *Federal Communications Commission,* 554 F.2d 1118 (D.C. Cir. 1976); *Electronic Industries Association* v. *Federal Communications Commission,* 554 F.2d 1109 (D.C. Cir. 1976); and *Capital Cities Communication, Inc.* v. *Federal Communications Commission,* 554 F.2d 1135 (D.C. Cir. 1976). The Commission's fee guidelines were developed based on these legal decisions.

The Commission's fee guidelines were upheld on August 24, 1979, by the U.S. Court of Appeals for the Fifth Circuit in *Mississippi Power and Light Co.* v. *U.S. Nuclear Regulatory Commission,* 601 F.2d 223 (5th Cir. 1979), *cert. denied,* 444 U.S. 1102 (1980). This court held that—

(1) The NRC had the authority to recover the full cost of providing services to identifiable beneficiaries;

(2) The NRC could properly assess a fee for the costs of providing routine inspections necessary to ensure a licensee's compliance with the Atomic Energy Act and with applicable regulations;

(3) The NRC could charge for costs incurred in conducting environmental reviews required by NEPA;

(4) The NRC properly included the costs of uncontested hearings and of administrative and technical support services in the fee schedule;

(5) The NRC could assess a fee for renewing a license to operate a low-level radioactive waste burial site; and

(6) The NRC's fees were not arbitrary or capricious.

With respect to 10 CFR Part 171, on November 5, 1990, the Congress passed Pub. L. 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), which required that, for FYs 1991 through 1995, approximately 100 percent of the NRC budget authority be recovered through the assessment of fees. OBRA–90 was subsequently amended to extend the 100 percent fee recovery requirement through FY 2000. The FY 2001 Energy and Water Development Appropriations Act amended OBRA–90 to decrease the NRC's fee recovery amount from 100 percent to 98 percent of the NRC's budget authority for FY 2001. To comply with this statutory requirement, and in accordance with § 171.13, the NRC is publishing the proposed amount of the FY 2001 annual fees for reactor licensees, fuel cycle licensees, materials licensees, and holders of Certificates of Compliance, registrations of sealed source and devices and QA program approvals, and Government agencies. OBRA–90, consistent with the accompanying Conference Committee Report, and the amendments to OBRA–90, provides that—

(1) The annual fees be based on approximately 98 percent of the Commission's FY 2001 budget of $481.9 million less the amounts collected from Part 170 fees and funds directly appropriated from the NWF to cover the NRC's high level waste program;

(2) The annual fees shall, to the maximum extent practicable, have a reasonable relationship to the cost of regulatory services provided by the Commission; and

(3) The annual fees be assessed to those licensees the Commission, in its discretion, determines can fairly, equitably, and practicably contribute to their payment.

In addition, the NRC's FY 2001 appropriations language provides that $3.2 million appropriated from the General Fund for activities related to regulatory reviews and other assistance provided to the other Federal agencies and States be excluded from fee recovery.

10 CFR Part 171, which established annual fees for operating power reactors effective October 20, 1986 (51 FR 33224; September 18, 1986), was challenged and upheld in its entirety in *Florida Power and Light Company* v. *United States,* 846 F.2d 765 (D.C. Cir. 1988), *cert. denied,* 490 U.S. 1045 (1989). Further, the NRC's FY 1991 annual fee rule methodology was upheld by the D.C. Circuit Court of Appeals in *Allied Signal* v. *NRC,* 988 F.2d 146 (D.C. Cir. 1993).

VIII. Regulatory Flexibility Analysis

The NRC is required by the Omnibus Budget Reconciliation Act of 1990, as amended, to recover approximately 98 percent of its FY 2001 budget authority through the assessment of user fees. This act further requires that the NRC establish a schedule of charges that fairly and equitably allocates the aggregate amount of these charges among licensees.

This proposed rule establishes the schedules of fees that are necessary to implement the Congressional mandate for FY 2001. The proposed rule would result in increases in the annual fees charged to certain licensees and holders

of certificates, registrations, and approvals, and decreases in annual fees for others, including those that qualify as a small entity under NRC's size standards in 10 CFR 2.810. The Regulatory Flexibility Analysis, prepared in accordance with 5 U.S.C. 604, is included as Appendix A to this proposed rule.

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) was signed into law on March 29, 1996. The SBREFA requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. Therefore, in compliance with the law, Attachment 1 to the Regulatory Flexibility Analysis is the small entity compliance guide for FY 2001.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and that a backfit analysis is not required for this proposed rule. The backfit analysis is not required because these proposed amendments do not require the modification of or additions to systems, structures, components, or the design of a facility or the design approval or manufacturing license for a facility or the procedures or organization required to design, construct or operate a facility.

List of Subjects

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, Registrations, Approvals, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 150, 170 and 171.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

1. The authority citation for Part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68, Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

2. In § 150.20, paragraph (b)(2) is revised to read as follows:

§ 150.20 Recognition of Agreement State licenses.

* * * * *

(b) * * *

(2) Shall file an amended NRC Form 241 or letter with the Regional Administrator to request approval for changes in work locations, radioactive material, or work activities different from the information contained on the initial NRC Form 241.

* * * * *

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

3. The authority citation for Part 170 is revised to read as follows:

Authority: sec. 9701, Pub. L. 97–258, 96 Stat. 1051 (31 U.S.C. 9701); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205a, Pub. L. 101–576, 104 Stat. 2842, as amended (31 U.S.C. 901, 902).

4. Section 170.2 is amended by adding a new paragraph (s) to read as follows:

§ 170.2 Scope.

* * * * *

(s) A holder of a general license granted by 10 CFR part 31 who is required to register a device(s).

5. Section 170.3 is amended by revising the definitions of Materials License and Special Projects:

§ 170.3 Definitions.

* * * * *

Materials license means a license, certificate, approval, registration, or other form of permission issued or granted by the NRC under the regulations in 10 CFR parts 30, 31 through 36, 39, 40, 61, 70, 72, and 76.

* * * * *

Special projects means those requests submitted to the Commission for review for which fees are not otherwise specified in this chapter. Examples of special projects include, but are not limited to, topical report reviews, early site reviews, waste solidification facilities, route approvals for shipment of radioactive materials, services provided to certify licensee, vendor, or other private industry personnel as instructors for 10 CFR part 55 reactor operators, reviews of financial assurance submittals that do not require a license amendment, reviews of responses to Confirmatory Action Letters, reviews of uranium recovery licensees' land-use survey reports, and reviews of 10 CFR 50.71 final safety analysis reports. As used in this part, special projects does not include requests/reports submitted to the NRC—

(1) In response to a Generic Letter or NRC Bulletin that does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue;

(2) In response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety, safeguards, or environmental issue, or to assist the NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or (3) As a means of exchanging information between industry organizations and the NRC for the purpose of supporting the NRC's generic regulatory improvements or efforts.

* * * * *

6. In Section 170.12, paragraph (a) is revised to read as follows:

§ 170.12 Payment of fees

(a) *Application and registration fees.* Each application or registration for which a fee is prescribed must be accompanied by a remittance for the full amount of the fee. The NRC will not issue a new license or an amendment increasing the scope of an existing license to a higher fee category before receiving the prescribed application fee. The application or registration fee(s) is charged whether the Commission approves the application or not. The application or registration fee(s) is also

charged if the applicant withdraws the application or registration.

* * * * *

7. Section 170.20 is revised to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the following applicable professional staff-hour rates:

Reactor Program (§ 170.21 Activities)—$150 per hour

Nuclear Materials and Nuclear Waste Program § 170.31 Activities)—$144 per hour

8. In § 170.21, the introductory text, Category K, and footnotes 1, 2, 3, and 4 to the table are revised to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.

Applicants for construction permits, manufacturing licenses, operating licenses, import and export licenses, approvals of facility standard reference designs, re-qualification and replacement examinations for reactor operators, and special projects and holders of construction permits, licenses, and other approvals shall pay fees for the following categories of services.

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees[1, 2]
* * * * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production and utilization facilities or the export only of components for production and utilization facilities issued under 10 CFR part 110.	
1. Application for import or export of reactors and other facilities and exports of components which must be reviewed by the Commissioners and the Executive Branch, for example, actions under 10 CFR 110.40(b).	
Application-new license	$9,400
Amendment	9,400
2. Application for export of reactor and other components requiring Executive Branch review only, for example, those actions under 10 CFR 110.41(a)(1)–(8).	
Application-new license	5,500
Amendment	5,500
3. Application for export of components requiring foreign government assurances only.	
Application-new license	1,700
Amendment	1,700
4. Application for export of facility components and equipment not requiring Commissioner review, Executive Branch review, or foreign government assurances.	
Application-new license	1,200
Amendment	1,200
5. Minor amendment of any export or import license to extend the expiration date, change domestic information, or make other revisions which do not require in-depth analysis or review.	
Amendment	220

[1] Fees will not be charged for orders issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these types of Commission orders. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., §§ 50.12, 73.5) and any other sections, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. Fees for licenses in this schedule that are initially issued for less than full power are based on review through the issuance of a full power license (generally full power is considered 100 percent of the facility's full rated power). Thus, if a licensee received a low power license or a temporary license for less than full power and subsequently receives full power authority (by way of license amendment or otherwise), the total costs for the license will be determined through that period when authority is granted for full power operation. If a situation arises in which the Commission determines that full operating power for a particular facility should be less than 100 percent of full rated power, the total costs for the license will be at that determined lower operating power level and not at the 100 percent capacity.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule updating the fee schedule will be determined at the professional rates in effect at the time the service was provided. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the final rule effective June 20, 1984 (and contained in the 10 CFR, parts 0 to 199, edition revised as of January 1, 1985) and the final rule effective July 2, 1990 (and contained in the 10 CFR, parts 51 to 199, edition revised as of January 1, 1991), but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for any topical report, amendment, revision or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

[3] Inspections covered by this schedule are both routine and non-routine safety and safeguards inspections performed by NRC for the purpose of review or follow-up of a licensed program. Inspections are performed through the full term of the license to ensure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, other legislation, Commission regulations or orders, and the terms and conditions of the license. Non-routine inspections that result from third-party allegations will not be subject to fees.

[4] Fees will not be assessed for requests/reports submitted to the NRC—

(a) In response to a Generic Letter or NRC Bulletin that does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue;

(b) In response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety, safeguards, or environmental issue, or to assist NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or

(c) As a means of exchanging information between industry organizations and the NRC for the purpose of supporting NRC's generic regulatory improvements or efforts.

9. Section 170.31 is revised to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

Applicants for materials licenses, import and export licenses, and other regulatory services, and holders of materials licenses or import and export licenses shall pay fees for the following categories of services. This schedule includes fees for health and safety and safeguards inspections where applicable.

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
1. Special nuclear material:	
A. Licenses for possession and use of 200 grams or more of plutonium in unsealed form or 350 grams or more of contained U–235 in unsealed form or 200 grams or more of U–233 in unsealed form. This includes applications to terminate licenses as well as licenses authorizing possession only:	
Licensing and Inspection	Full Cost
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI):	
Licensing and inspection	Full Cost
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers: [4]	
Application	$660
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1A: [4]	
Application	1,300
E. Licenses or certificates for construction and operation of a uranium enrichment facility:	
Licensing and inspection	Full Cost
2. Source material:	
A. (1) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, refining uranium mill concentrates to uranium hexafluoride, ore buying stations, and ion exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode:	
Licensing and inspection	Full Cost
(2) Licenses that authorize the receipt of byproduct material, as defined in section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal except those licenses subject to fees in Category 2A(1):	
Licensing and inspection	Full Cost
(3) Licenses that authorize the receipt of byproduct material, as defined in section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2A(1):.	
Licensing and inspection	Full Cost
B. Licenses which authorize the possession, use, and/or installation of source material for shielding:	
Application	160
C. All other source material licenses:	
Application	5,700
3. Byproduct material:	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application	6,700
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application	2,200
C. Licenses issued under §§ 32.72, 32.73, and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 170.11(a)(4). These licenses are covered by fee Category 3D.	
Application	8,700
D. Licenses and approvals issued under §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§ 32.72, 32.73, and/or 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 170.11(a)(4).	
Application	2,400
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units):	
Application	1,700
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application	3,400
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application	8,000

SCHEDULE OF MATERIALS FEES—CONTINUED

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter:	
Application	2,300
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter.This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter:	
Application	3,400
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter:	
Application	1,000
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter:	
Application	590
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution:	
Application	5,700
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution:	
Application	2,500
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C:	
Application	2,600
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations:	
Registration	4,200
P. All other specific byproduct material licenses, except those in Categories 4A through 9D:	
Application	1,300
Q. Registration of a device(s) generally licensed under part 31:	
Application	450
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:	
Licensing and inspection	Full Cost
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application	1,700
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application	2,600
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies:	
Application	5,600
B. Licenses for possession and use of byproduct material for field flooding tracer studies:	
Licensing	Full Cost
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material:	
Application	11,500
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application	6,300

SCHEDULE OF MATERIALS FEES—CONTINUED

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application	4,500
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application	2,200
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:	
Application	330
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution:	
Application—each device	5,400
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices:	
Application—each device	5,400
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution:	
Application—each source	1,600
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel:	
Application—each source	550
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers:	
Licensing and inspections	Full Cost
B. Evaluation of 10 CFR part 71 quality assurance programs:	
Application	650
Inspections	Full Cost
11. Review of standardized spent fuel facilities:	
Licensing and inspection	Full Cost
12. Special projects: [5]	
Approvals and preapplication/Licensing activities	Full Cost
Inspections	Full Cost
13. A. Spent fuel storage cask Certificate of Compliance:	
Licensing	Full Cost
B. Inspections related to spent fuel storage cask Certificate of Compliance	Full Cost
C. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter:	
Licensing and inspection	Full Cost
15. Import and Export licenses:	
Licenses issued under 10 CFR part 110 for the import and export only of special nuclear material, source material, tritium and other byproduct material, heavy water, or nuclear grade graphite.	
A. Application for export or import of high enriched uranium and other materials, including radioactive waste, which must be reviewed by the Commissioners and the Executive Branch, for example, those actions under 10 CFR 110.40(b). This category includes application for export or import of radioactive wastes in multiple forms from multiple generators or brokers in the exporting country and/or going to multiple treatment, storage or disposal facilities in one or more receiving countries.	
Application—new license	9,400
Amendment	9,400
B. Application for export or import of special nuclear material, source material, tritium and other byproduct material, heavy water, or nuclear grade graphite, including radioactive waste, requiring Executive Branch review but not Commissioner review. This category includes application for the export or import of radioactive waste involving a single form of waste from a single class of generator in the exporting country to a single treatment, storage and/or disposal facility in the receiving country.	
Application—new license	5,500
Amendment	5,500
C. Application for export of routine reloads of low enriched uranium reactor fuel and exports of source material requiring only foreign government assurances under the Atomic Energy Act.	
Application—new license	1,700
Amendment	1,700

SCHEDULE OF MATERIALS FEES—CONTINUED

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
D. Application for export or import of other materials, including radioactive waste, not requiring Commissioner review, Executive Branch review, or foreign government assurances under the Atomic Energy Act. This category includes application for export or import of radioactive waste where the NRC has previously authorized the export or import of the same form of waste to or from the same or similar parties, requiring only confirmation from the receiving facility and licensing authorities that the shipments may proceed according to previously agreed understandings and procedures.	
Application—new license	1,200
Amendment	1,200
E. Minor amendment of any export or import license to extend the expiration date, change domestic information, or make other revisions which do not require in-depth analysis, review, or consultations with other agencies or foreign governments.	
Amendment	220
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application	1,400

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews and applications for new licenses and approvals, issuance of new licenses and approvals, certain amendments and renewals to existing licenses and approvals, safety evaluations of sealed sources and devices, and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee Category 1C only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses and for renewals and amendments to existing licenses, for pre-application consultations and for reviews of other documents submitted to NRC for review, and for project manager time for fee categories subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to a license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and non-routine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these types of Commission orders. However, fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Categories 9A through 9D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect at the time the service is provided, and the appropriate contractual support services expended. For applications currently on file for which review costs have reached an applicable fee ceiling established by the final rule effective June 20, 1984 (and contained in the 10 CFR, parts 0 to 199, edition revised as of January 1, 1985) and the final rule effective July 2, 1990 (and contained in the 10 CFR, parts 51 to 199, edition revised as of January 1, 1991), but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for each topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

[4] Licensees paying fees under Categories 1A, 1B, and 1E are not subject to fees under Categories 1C and 1D for sealed sources authorized in the same license except for an application that deals only with the sealed sources authorized by the license.

[5] Fees will not be assessed for requests/reports submitted to the NRC:

(a) In response to a Generic Letter or NRC Bulletin that does not result in an amendment to the license, does not result in the review of an alternate method or re-analysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue;

(b) In response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety, safeguards, or environmental issue, or to assist the NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or

(c) As a means of exchanging information between industry organizations and the NRC for the purpose of supporting the NRC's generic regulatory improvements or efforts.

10. Section 170.41 is revised to read as follows:

§ 170.41. Failure by applicant or licensee to pay prescribed fees.

If the Commission determines that an applicant or a licensee has failed to pay a prescribed fee required in this part, the Commission will not process any application and may suspend or revoke any license or approval issued to the applicant or licensee. The Commission may issue an order with respect to licensed activities that the Commission determines to be appropriate or necessary to carry out the provisions of this part, parts 30, 31, 32 through 35, 40, 50, 61, 70, 71, 72, 73, and 76 of this chapter, and of the Act.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIAL LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC.

11. The authority citation for Part 171 is revised to read as follows:

Authority: Sec. 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330, as amended by sec. 3201, Pub. L. 101–239, 103 Stat. 2132, as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388, as amended by sec. 2903a, Pub. L. 102–486, 106 Stat. 3125 (42 U.S.C. 2213, 2214); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

12. In Section § 171.5, the definition of Materials License is revised to read as follows:

§ 171.5 Definitions.

* * * * *

Materials license means a license, certificate, approval, registration or other form of permission issued or granted by the NRC under the regulations in 10 CFR parts 30, 31 through 36, 39, 40, 61, 70, 71, 72, and 76.

* * * * *

13. In § 171.15, paragraphs (b), (c), (d), and (e) are revised to read as follows:

§ 171.15 Annual Fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2001 annual fee for each operating power reactor which must be collected by September 30, 2001, is $2,809,000.

(2) The FY 2001 annual fee is comprised of a base operating power reactor annual fee, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (surcharges). The activities comprising the FY 2001 spent storage/reactor decommissioning base annual fee are shown in paragraph (c)(2)(i) and (ii) of this section. The activities comprising the FY 2001 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 2001 base annual fee for operating power reactors are as follows:

(i) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under part 170 of this chapter and generic reactor decommissioning activities.

(ii) Research activities directly related to the regulation of power reactors, except those activities specifically related to reactor decommissioning.

(iii) Generic activities required largely for NRC to regulate power reactors, e.g., updating part 50 of this chapter, or operating the Incident Response Center. The base annual fee for operating power reactors does not include generic activities specifically related to reactor decommissioning.

(c)(1) The FY 2001 annual fee for each power reactor holding a part 50 license that is in a decommissioning or possession only status and has spent fuel on-site and each independent spent fuel storage part 72 licensee who does not hold a part 50 license is $275,000.

(2) The FY 2001 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section), and an additional charge (surcharge). The activities comprising the FY 2001 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 2001 spent fuel storage/reactor decommissioning rebaselined annual fee are:

(i) Generic and other research activities directly related to reactor decommissioning and spent fuel storage; and

(ii) Other safety, environmental, and safeguards activities related to reactor decommissioning and spent fuel storage, except costs for licensing and inspection activities that are recovered under part 170 of this chapter.

(d)(1) The activities comprising the FY 2001 surcharge are as follows:

(i) Low level waste disposal generic activities;

(ii) Activities not attributable to an existing NRC licensee or class of licensees (e.g., international cooperative safety program and international safeguards activities, support for the Agreement State program, and site decommissioning management plan (SDMP) activities); and

(iii) Activities not currently subject to 10 CFR part 170 licensing and inspection fees based on existing law or Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions, licensing actions for Federal agencies, and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

(2) The total FY 2001 surcharge allocated to the operating power reactor class of licensees is $38.2 million, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2001 operating power reactor surcharge to be assessed to each operating power reactor is approximately $367,000. This amount is calculated by dividing the total operating power reactor surcharge ($38.2 million) by the number of operating power reactors (104).

(3) The FY 2001 surcharge allocated to the spent fuel storage/reactor decommissioning class of licensees is $4.3 million. The FY 2001 spent fuel storage/reactor decommissioning surcharge to be assessed to each operating power reactor, each power reactor in decommissioning or possession only status that has spent fuel onsite, and to each independent spent fuel storage part 72 licensee who does not hold a part 50 license is approximately $35,600. This amount is calculated by dividing the total surcharge costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel on site, and part 72 licensees who do not hold a part 50 license.

(e) The FY 2001 annual fees for licensees authorized to operate a non-power (test and research) reactor licensed under part 50 of this chapter, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor—$74,000
Test reactor—$74,000

14. In § 171.16, paragraphs (c), (d), and (e) are revised to read as follows:

§ 171.16 Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals and Government Agencies Licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides

the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in the following table. Failure to file a small entity certification in a timely manner could result in the denial of any refund that might otherwise be due.

	Maximum annual fee per licensed category
Small Businesses Not Endangered in Manufacturing and Small Not-For-Profit Organizations (Gross Annual Receipts):	
$350,000 to $5 million	$2,300
Less than $350,000	500
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	2,300
Less than 35 employees	500
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 50,000	2,300
Less than 20,000	500
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Less:	
35 to 500 employees	2,300
Less than 35 employees	500

(1) A licensee qualifies as a small entity if it meets the size standards established by the NRC (See 10 CFR 2.810).

(2) A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under this section must file a certification statement with the NRC. The licensee must file the required certification on NRC Form 526 for each license under which it is billed. NRC Form 526 can be accessed through the NRC's external web site at *http://www.nrc.gov.* For licensees who cannot access the NRC's external web site, NRC Form 526 may be obtained through the local point of contact listed in the NRC's ''Materials Annual Fee Billing Handbook,'' NUREG/BR–0238, which is enclosed with each annual fee billing. The Form can also be obtained by calling the fee staff at 301–415–7554, or by e-mailing the fee staff at <fees@nrc.gov>.

(3) For purposes of this section, the licensee must submit a new certification with its annual fee payment each year.

(4) The maximum annual fee a small entity is required to pay is $2,300 for each category applicable to the license(s).

(d) The FY 2001 annual fees for materials licensees and holders of certificates, registrations or approvals subject to fees under this section are shown in the following table. The FY 2001 annual fees are comprised of a base annual fee and an additional charge (surcharge). The activities comprising the FY 2001 surcharge are shown for convenience in paragraph (e) of this section.

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material:	
Babcock & Wilcox: SNM–42	$3,551,000
Nuclear Fuel Services: SNM–124	3,551,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel:	
Combustion Engineering (Hematite) SNM–33	1,191,000
General Electric Company: SNM–1097	1,191,000
Siemens Nuclear Power: SNM–1227	1,191,000
Westinghouse Electric Company: SNM–1107	1,191,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations:	
Framatome Cogema SNM–1168	468,000
(b) All Others:	
General Electric SNM–960	340,000
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI)	[11]N/A
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers	1,400
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2)	3,300
E. Licenses or certificates for the operation of a uranium enrichment facility	2,211,000
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride	510,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
Class I facilities [4]	94,300
Class II facilities [4]	79,000
Other facilities [4]	29,900
(3) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2A(2) or Category 2A(4)	58,200
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2A(2)	9,200
B. Licenses that authorize only the possession, use and/or installation of source material for shielding	690
C. All other source material licenses	11,000
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	20,500
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	5,300
C. Licenses issued under §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 171.11(a)(1). These licenses are covered by fee Category 3D	12,300
D. Licenses and approvals issued under §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§ 32.72, 32.73 and 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 171.11(a)(1). This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license	3,900
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)	3,200
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	5,800
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	20,900
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter	3,200
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter	4,600
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter	2,100
K. Licenses issued under subpart B of part 31 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter	1,400
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution	10,000
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution	4,400
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C	4,800
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license	12,500
P. All other specific byproduct material licenses, except those in Categories 4A through 9D	2,400
Q. Registration of devices generally licensed pursuant to 10 CFR part 31	[13] N/A

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material	[5] N/A
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	9,800
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	7,400
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies	8,800
B. Licenses for possession and use of byproduct material for field flooding tracer studies	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material	16,900
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license	13,900
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license[9]	24,200
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license[9]	4,600
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities	1,100
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	5,800
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	5,800
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	1,700
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	590
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
Other Casks	[6] N/A
B. Quality assurance program approvals issued under 10 CFR part 71.	
Users and Fabricators	62,500
Users	6,100
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	[12] N/A
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under 10 CFR parts 30, 40, 70, 72, and 76 of this chapter	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies	306,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 1,107,000

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
B. Uranium Mill Tailing Radiation Control Act (UMTRCA) activities	654,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current fiscal year. However, the annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses prior to October 1, 2000, and permanently ceased licensed activities entirely by September 30, 2000. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession only license during the fiscal year and for new licenses issued during the fiscal year will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1A(1) are not subject to the annual fees for Category 1C and 1D for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each fiscal year, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the FEDERAL REGISTER for notice and comment.

[4] A Class I license includes mill licenses issued for the extraction of uranium from uranium ore. A Class II license includes solution mining licenses (in-situ and heap leach) issued for the extraction of uranium from uranium ores including research and development licenses. An ''other'' license includes licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.

[10] This includes Certificates of Compliance issued to DOE that are not under the Nuclear Waste Fund.

[11] See 10 CFR 171.15(c).

[12] See 10 CFR 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program will be recovered through 10 CFR part 170 fees.

(e) The activities comprising the surcharge are as follows:

(1) LLW disposal generic activities;

(2) Activities not directly attributable to an existing NRC licensee or class(es) of licensees; e.g., international cooperative safety program and international safeguards activities; support for the Agreement State program; Site Decommissioning Management Plan (SDMP) activities; and

(3) Activities not currently assessed licensing and inspection fees under 10 CFR part 170 based on existing law or Commission policy (e.g., reviews and inspections of nonprofit educational institutions and reviews for Federal agencies; activities related to decommissioning and reclamation; and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act).

15. In § 171.19, paragraphs (b) and (d) are revised to read as follows:

§ 171.19 Payment.

* * * * *

(b) Annual fees in the amount of $100,000 or more and described in the **Federal Register** document issued under § 171.13, and annual fees for Class I and Class II uranium recovery licensees must be paid in quarterly installments of 25 percent as billed by the NRC. The quarters begin on October 1, January 1, April 1, and July 1 of each fiscal year. The NRC will adjust the fourth quarterly invoice to recover the full amount of the revised annual fee. If the amounts collected in the first three quarters exceed the amount of the revised annual fee, the overpayment will be refunded. Licensees whose annual fee for the previous fiscal year was less than $100,000 (billed on the anniversary date of the license), and whose revised annual fee for the current fiscal year is $100,000 or greater (subject to quarterly billing), will be issued a bill upon publication of the final rule for the full amount of the revised annual fee for the current fiscal year, less any payments received for the current fiscal year based on the anniversary date billing process.

* * * * *

(d) Annual fees of less than $100,000 must be paid as billed by the NRC. Materials license annual fees that are less than $100,000, except those for Class I and Class II uranium recovery licensees, are billed on the anniversary date of the license. The materials licensees that are billed on the anniversary date of the license are those covered by fee categories 1C, 1D, 2A(2) Other Facilities, 2A(3), 2A(4), 2B, 2C, 3A through 3P, 4B through 9D, 10A, and 10B.

* * * * *

Dated at Rockville, Maryland, this 19th day of March, 2001.

Jesse L. Funches,

Chief Financial Officer.

Note: This appendix will not appear in the Code of Federal Regulations.

Appendix A to This Proposed Rule—Draft Regulatory Flexibility Analysis for the Amendments to 10 CFR Part 170 (License Fees) and 10 CFR Part 171 (Annual Fees)

I. Background

The Regulatory Flexibility Act (RFA), as amended, (5 U.S.C. 601 *et seq.*) requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

The NRC has established standards for determining which NRC licensees qualify as small entities (10 CFR 2.801). These size standards reflect the Small Business Administration's most common receipts-based size standards and include a size standard for business concerns that are manufacturing entities. The NRC uses the size standards to reduce the impact of annual fees on small entities by establishing a licensee's eligibility to qualify for a

maximum small entity fee. The small entity fee categories in § 171.16(c) of this proposed rule are based on the NRC's size standards.

From FY 1991 through FY 2000, the Omnibus Budget Reconciliation Act (OBRA–90), as amended, required that the NRC recover approximately 100 percent of its budget authority, less appropriations from the Nuclear Waste Fund, by assessing license and annual fees. The FY 2001 Energy and Water Development Appropriations Act amended OBRA–90 to decrease the NRC's fee recovery amount for FY 2001 to 98 percent of the NRC's budget. Certain NRC costs related to reviews and assistance provided to other Federal agencies and States were excluded from the fee recovery requirement for FY 2001 by the Energy and Water Development Appropriations Act. The amount to be recovered for FY 2001 is approximately $453.3 million.

OBRA–90 requires that the schedule of charges established by rule should fairly and equitably allocate the total amount to be recovered from NRC's licensees and be assessed under the principle that licensees who require the greatest expenditure of agency resources pay the greatest annual charges. Since 1991, the NRC has complied with OBRA–90 by issuing a final rule that amends its fee regulations. These final rules have established the methodology used by NRC in identifying and determining the fees to be assessed and collected in any given fiscal year.

In FY 1995, the NRC announced that, in order to stabilize fees, annual fees would be adjusted only by the percentage change (plus or minus) in NRC's total budget authority, adjusted for changes in estimated collections for 10 CFR Part 170 fees, the number of licensees paying annual fees, and as otherwise needed to assure the billed amounts resulted in the required collections. The NRC indicated that if there were a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees, the annual fee base would be recalculated.

In FY 1999, the NRC concluded that there had been significant changes in the allocation of agency resources among the various classes of licensees and established rebaselined annual fees for FY 1999. The NRC stated in the final FY 1999 rule that to stabilize fees it would continue to adjust the annual fees by the percent change method established in FY 1995, unless there were a substantial change in the total NRC budget or the magnitude of the budget allocated to a specific class of licensees, in which case the annual fee base would be reestablished.

After carefully considering all factors, including the changes to the amount of the budget allocated to classes of licensees, and weighing the complex issues related to both fairness and stability of fees, the Commission has determined that it is appropriate to rebaseline its Part 171 annual fees in FY 2001. Rebaselining fees would result in reduced annual fees for a majority of the categories of licenses, and increased annual fees for other categories.

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) is intended to reduce regulatory burdens imposed by Federal agencies on small businesses, nonprofit organizations, and governmental jurisdictions. SBREFA also provides Congress with the opportunity to review agency rules before they go into effect. Under this legislation, the NRC annual fee rule is considered a ''major'' rule and must be reviewed by Congress and the Comptroller General before the rule becomes effective. SBREFA also requires that an agency prepare a guide to assist small entities in complying with each rule for which a final regulatory flexibility analysis is prepared. This Regulatory Flexibility Analysis (RFA) and the small entity compliance guide (Attachment 1) have been prepared for the FY 2001 fee rule as required by law.

II. Impact on Small Entities

The fee rule results in substantial fees being charged to those individuals, organizations, and companies that are licensed by the NRC, including those licensed under the NRC materials program. The comments received on previous proposed fee rules and the small entity certifications received in response to previous final fee rules indicate that NRC licensees qualifying as small entities under the NRC's size standards are primarily materials licensees. Therefore, this analysis will focus on the economic impact of the annual fees on materials licensees. About 20 percent of these licensees (approximately 1,400 licensees for FY 2000) have requested small entity certification in the past. A 1993 NRC survey of its materials licensees indicated that about 25 percent of these licensees could qualify as small entities under the NRC's size standards.

The commenters on previous fee rulemakings consistently indicated that the following results would occur if the proposed annual fees were not modified.

1. Large firms would gain an unfair competitive advantage over small entities. Commenters noted that small and very small companies (''Mom and Pop'' operations) would find it more difficult to absorb the annual fee than a large corporation or a high-volume type of operation. In competitive markets, such as soils testing, annual fees would put small licensees at an extreme competitive disadvantage with their much larger competitors because the proposed fees would be the same for a two-person licensee as for a large firm with thousands of employees.

2. Some firms would be forced to cancel their licenses. A licensee with receipts of less than $500,000 per year stated that the proposed rule would, in effect, force it to relinquish its soil density gauge and license, thereby reducing its ability to do its work effectively. Other licensees, especially well-loggers, noted that the increased fees would force small businesses to get rid of the materials license altogether. Commenters stated that the proposed rule would result in about 10 percent of the well-logging licensees terminating their licenses immediately and approximately 25 percent terminating their licenses before the next annual assessment.

3. Some companies would go out of business.

4. Some companies would have budget problems. Many medical licensees noted that, along with reduced reimbursements, the proposed increase of the existing fees and the introduction of additional fees would significantly affect their budgets. Others noted that, in view of the cuts by Medicare and other third party carriers, the fees would produce a hardship and some facilities would experience a great deal of difficulty in meeting this additional burden.

Since annual fees for materials licenses were first established, approximately 3,000 license, approval, and registration terminations have been requested. Although some of these terminations were requested because the license was no longer needed or licenses or registrations could be combined, indications are that other termination requests were due to the economic impact of the fees.

To alleviate the significant impact of the annual fees on a substantial number of small entities, the NRC considered the following alternatives in accordance with the RFA, in developing each of its fee rules since 1991.

1. Base fees on some measure of the amount of radioactivity possessed by the licensee (e.g., number of sources).

2. Base fees on the frequency of use of the licensed radioactive material (e.g., volume of patients).

3. Base fees on the NRC size standards for small entities.

The NRC has reexamined its previous evaluations of these alternatives and continues to believe that establishment of a maximum fee for small entities is the most appropriate and effective option for reducing the impact of its fees on small entities.

III. Maximum Fee

The RFA and its implementing guidance do not provide specific guidelines on what constitutes a significant economic impact on a small entity. Therefore, the NRC has no benchmark to assist it in determining the amount or the percent of gross receipts that should be charged to a small entity. In developing the maximum small entity annual fee in FY 1991, the NRC examined its 10 CFR Part 170 licensing and inspection fees and Agreement State fees for those fee categories which were expected to have a substantial number of small entities. Six Agreement States; Washington, Texas, Illinois, Nebraska, New York, and Utah were used as benchmarks in the establishment of the maximum small entity annual fee in 1991. Because small entities in those Agreement States were paying the fees, the NRC concluded that these fees did not have a significant impact on a substantial number of small entities. Therefore, those fees were considered a useful benchmark in establishing the NRC maximum small entity annual fee.

The NRC maximum small entity fee was established as an annual fee only. In addition to the annual fee, NRC small entity licensees were required to pay amendment, renewal and inspection fees. In setting the small entity annual fee, NRC ensured that the total amount small entities paid annually would not exceed the maximum paid in the six benchmark Agreement States.

Of the six benchmark states, the maximum Agreement State fee of $3,800 in Washington

was used as the ceiling for the total fees. Thus the NRC's small entity fee was developed to ensure that the total fees paid by NRC small entities would not exceed $3,800. Given the NRC's 1991 fee structure for inspections, amendments, and renewals, a small entity annual fee established at $1,800 allowed the total fee (small entity annual fee plus yearly average for inspections, amendments and renewal fees) for all categories to fall under the $3,800 ceiling.

In 1992, the NRC introduced a second, lower tier to the small entity fee in response to concerns that the $1,800 fee, when added to the license and inspection fees, still imposed a significant impact on small entities with relatively low gross annual receipts. For purposes of the annual fee, each small entity size standard was divided into an upper and lower tier. Small entity licensees in the upper tier continued to pay an annual fee of $1,800 while those in the lower tier paid an annual fee of $400.

Based on the changes that had occurred since FY 1991, the NRC re-analyzed its maximum small entity annual fees in FY 2000, and determined that the small entity fees should be increased by 25 percent to reflect the increase in the average fees paid by other materials licensees since FY 1991 as well as changes in the fee structure for materials licensees. The structure of the fees that NRC charged to its materials licensees changed during the period between 1991 and 1999. Costs for materials license inspections, renewals, and amendments, which were previously recovered through Part 170 fees for services, are now included in the Part 171 annual fees assessed to materials licensees. As a result, the maximum small entity annual fee increased from $1,800 to $2,300 in FY 2000. By increasing the maximum annual fee for small entities from $1,800 to $2,300, the annual fee for many small entities was reduced while at the same time materials licensees, including small entities, would pay for most of the costs attributable to them. The costs not recovered from small entities are allocated to other materials licensees and to power reactors.

While reducing the impact on many small entities, the NRC determined that the maximum annual fee of $2,300 for small entities may continue to have a significant impact on materials licensees with annual gross receipts in the thousands of dollars range. Therefore, the NRC continued to provide a lower-tier small entity annual fee for small entities with relatively low gross annual receipts, and for manufacturing concerns and educational institutions not State or publicly supported, with less than 35 employees. The NRC also increased the lower tier small entity fee by the same percentage increase to the maximum small entity annual fee. This 25 percent increase resulted in the lower tier small entity fee increasing from $400 to $500 in FY 2000.

In the FY 2000 fee rule (65 FR 36946; June 12, 2000), the NRC stated that it would re-examine small entity fees each year that annual fees are rebaselined. Accordingly, the NRC has re-examined the small entity fees, and does not believe that a change to the small entity fees is warranted for FY 2001. The revision to the small entity fees in FY 2000 was the first change to the fees since they were introduced in FY 1991 and FY 1992. The revised fees were based on on the 25 percent increase in average total fees assessed to other materials licensees since the small entity fees were first established and changes that had occurred in the fee structure for materials licensees over time. The NRC does not consider the approximately 13 percent decrease in the average FY 2001 fees for other licensees to be significant enough to warrant another change to the small entity fees this year.

Unlike the annual fees assessed to other licensees, the small entity fees are not designed to recover the agency costs associated with particular licensees. Rather, they are designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from those licensees some of the agency's costs for activities that benefit them. The costs not recovered from small entities must be recovered from other licensees. The current small entity fees of $500 and $2,300 provide considerable relief to many small entities.

In the future the NRC plans to re-examine the small entity fees every two years, in the same years in which it conducts the biennial review of fees as required by the CFO Act, instead of each year that annual fees are rebaselined as indicated in the FY 2000 fee rule. The annual fees for materials users now include the cost of amendments, renewals, and inspections. However, at a maximum, annual fees are rebaselined every three years, but may be rebaselined earlier if warranted. Therefore, reviewing the small entity fees only when the annual fees are rebaselined results in a variable schedule for the re-examinations and any potential changes to the fees. Re-examining the small entity annual fees every two years, on the same schedule as the biennial review under the CFO Act, provides a routine, predictable schedule and allows licensees to anticipate when potential changes to these fees might occur. Therefore, the NRC plans to re-examine the small entity fees in FY 2003.

IV. 40 Summary

The NRC has determined that the 10 CFR Part 171 annual fees significantly impact a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to recover 98 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. On the basis of its regulatory flexibility analysis, the NRC concludes that a maximum annual fee of $2,300 for small entities and a lower-tier small entity annual fee of $500 for small businesses and not-for-profit organizations with gross annual receipts of less than $350,000, small governmental jurisdictions with a population of less than 20,000, small manufacturing entities that have less than 35 employees, and educational institutions that are not State or publicly supported and have less than 35 employees reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA–90. Thus, the fees for small entities maintain a balance between the objectives of OBRA–90 and the RFA. Therefore, the analysis and conclusions established in the FY 2000 fee rule remain valid for FY 2001.

Attachment 1 to Appendix A.—U.S. Nuclear Regulatory Commission, Small Entity Compliance Guide, Fiscal Year 2001

Contents

Introduction

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires all Federal agencies to prepare a written guide for each ''major'' final rule as defined by the Act. The NRC's fee rule, published annually to comply with the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, is considered a ''major'' rule under SBREFA. Therefore, in compliance with the law, this compliance guide has been prepared to assist NRC material licensees comply with the FY 2001 fee rule.

Licensees may use this guide to determine whether they qualify as a small entity under NRC regulations and are eligible to pay reduced FY 2001 annual fees assessed under 10 CFR Part 171. The NRC has established two tiers of separate annual fees for those materials licensees who qualify as small entities under NRC's size standards.

Licensees who meet NRC's size standards for a small entity must submit a completed NRC Form 526 ''Certification of Small Entity Status for the Purposes of Annual Fees Imposed Under 10 CFR Part 171'' to qualify for the reduced annual fee. This form can be accessed on the NRC's external web site at *http://www.nrc.gov.* The form can then be accessed by selecting ''Planning & Financial Management'' and then selecting ''NRC License Fee Program'' and under ''Forms'' selecting NRC Form 526. For licensees who cannot access the NRC's external web site, NRC Form 526 may be obtained through the local point of contact listed in the NRC's ''Materials Annual Fee Billing Handbook,'' NUREG/BR–0238, which is enclosed with each annual fee billing. Alternatively, the form may be obtained by calling the fee staff at 301–415–7554, or by e-mailing the fee staff at *fees@nrc.gov.* The completed form, the appropriate small entity fee, and the payment copy of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch, to the address indicated on the invoice. Failure to file the NRC small entity certification Form 526 in a timely manner may result in the denial of any refund that might otherwise be due.

NRC Definition of Small Entity

The NRC has defined a small entity for purposes of compliance with its regulations (10 CFR 2.810) as follows:

1. Small business—a for-profit concern that provides a service or a concern not engaged in manufacturing with average gross receipts of $5 million or less over its last 3 completed fiscal years;

2. Manufacturing industry—a manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months;

3. Small organizations—a—not-for-profit organization which is independently owned and operated and has annual gross receipts of $5 million or less;

4. Small governmental jurisdiction—a government of a city, county, town, township, village, school district or special district with a population of less than 50,000;

5. Small educational institutional institution—an educational institution supported by a qualifying small governmental jurisdiction, or one that is not state or publicly supported and has 500 or fewer employees.[1]

To further assist licensees in determining if they qualify as a small entity, we are providing the following guidelines, which are based on the Small Business Administration regulations.

1. A small business concern is an independently owned and operated entity which is not considered dominant in its field of operations.

2. The number of employees means the total number of employees in the parent company, any subsidiaries and/or affiliates, including both foreign and domestic locations (i.e., not solely the number of employees working for the licensee or conducting NRC licensed activities for the company).

3. Gross annual receipts includes all revenue received or accrued from any source, including receipts of the parent company, any subsidiaries and/or affiliates, and account for both foreign and domestic locations. Receipts include all revenues from sales of products and services, interest, rent, fees, and commissions, from whatever sources derived (i.e., not solely receipts from NRC licensed activities).

4. A licensee who is a subsidiary of a large entity does not qualify as a small entity.

NRC Small Entity Fees

In 10 CFR 171.16 (c), the NRC has established two tiers of small entity fees for licensees that qualify under the NRC's size standards. The fees are as follows:

	Maximum annual fee per licensed category
Small Business Not Engaged in Manufacturing and Small Not-For Profit Organizations (Gross Annual Receipts):	
$350,000 to $5 million	$2,300
Less than $350,000	500
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	2,300
Less than 35 employees	500
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 50,000	2,300
Less than 20,000	500
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Less:	
35 to 500 employees	2,300
Less than 35 employees	500

To pay a reduced annual fee, a licensee must use NRC Form 526. The NRC is proposing to eliminate mailing NRC Form 526 with the annual fee invoice. Instead, licensees can access this form on the NRC's external web site at *http://www.nrc.gov*. The form can then be accessed by selecting ''Planning & Financial Management'' and then selecting ''NRC License Fee Program'' and under ''Forms'' selecting NRC Form 526. Those licensees that qualify as a ''small entity'' under the NRC size standards at 10 CFR Part 2.810 would be able to complete the form in accordance with the instructions provided, and submit the completed form and the appropriate payment to the address provided on the invoice. For licensees who cannot access the NRC's external web site, NRC Form 526 may be obtained through the local point of contact listed in the NRC's ''Materials Annual Fee Billing Handbook,'' NUREG/BR–0238, which is enclosed with each annual fee invoice. Alternatively, licensees may obtain the form by calling the fee staff at 301–415–7544, or by e-mailing us at *fees@nrc.gov*.

Instructions for Completing NRC Small Entity Form 526

1. File a separate NRC Form 526 for each annual fee invoice received.

2. Complete all items on NRC Form 526 as follows:

a. The license number and invoice number must be entered exactly as they appear on the annual fee invoice.

b. The Standard Industrial Classification (SIC) Code must be entered if known.

c. The licensee's name and address must be entered as they appear on the invoice. Name and/or address changes for billing purposes must be annotated on the invoice. Correcting the name and/or address on NRC Form 526, or on the invoice does not constitute a request to amend the license. Any request to amend a license is to be submitted to the respective licensing staffs in the NRC Regional or Headquarters Offices.

d. Check the appropriate size standard for which the licensee qualifies as a small entity. Check only one box. Note the following:

(1) A licensee who is a subsidiary of a large entity does not qualify as a small entity.

(2) The size standards apply to the licensee, including all parent companies and affiliates—not the individual authorized users listed in the license or the particular segment of the organization that uses licensed material.

(3) Gross annual receipts means all revenue in whatever form received or accrued from whatever sources—not solely receipts from licensed activities. There are limited exceptions as set forth at 13 CFR 121.104. These are: The term receipts excludes net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income; proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS); and amounts collected for another entity by a travel agent, real estate agent, advertising agent, or conference management service provider.

(4) The owner of the entity, or an official empowered to act on behalf of the entity, must sign and date the small entity certification.

The NRC sends invoices to its licensees for the full annual fee, even though some entities qualify for reduced fees as a small entity. Licensees who qualify as a small entity and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which for a full year is either $2,300 or $500 depending on the size of the entity, for each fee category shown on the invoice. Licensees granted a license during the first six months of the fiscal year, and licensees who file for termination or for a possession only license and permanently cease licensed activities during the first six months of the fiscal year, pay only 50 percent of the annual fee for that year. Such an invoice states the ''Amount Billed Represents 50% Proration.'' This means the amount due from a small entity is not the prorated amount shown on the invoice, but rather one-half of the maximum annual fee shown on NRC Form 526 for the size standard under which the

[1] An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides and educational program for which it awards academic degrees, and whose educational programs are available the public.

licensee qualifies, resulting in a fee of either $1,150 or $250 for each fee category billed, instead of the full small entity annual fee of $2,300 or $500.

A new small entity form (NRC Form 526) must be filed with the NRC each fiscal year to qualify for reduced fees in that year. Because a licensee's ''size,'' or the size standards, may change from year to year, the invoice reflects the full fee and a new Form 526 must be completed and returned in order for the fee to be reduced to the small entity fee amount. licensees will not be issued a new invoice for the reduced amount. The completed NRC Form 526, the payment of the appropriate small entity fee, and the ''Payment Copy'' of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch at the address indicated on the invoice.

If you have questions regarding the NRC's annual fees, please call the license fee staff at 301–415–7554, e-mail the fee staff at *fees@nrc.gov,* or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Office of the Chief Financial Officer.

False certification of small entity status could result in civil sanctions being imposed by the NRC under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et seq.* NRC's implementing regulations are found at 10 CFR Part 13.

[FR Doc. 01–7356 Filed 3–27–01; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Wednesday,
March 28, 2001

Part III

Environmental Protection Agency

Certain New Chemicals; Receipt and Status Information; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51965; FRL–6775–5]

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 January 29, 2001 to February 9, 2001, consists of the PMNs and TMEs, both 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. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51965 and the specific PMN number in the subject line on the first page of your response.

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

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 Additional Information, Including Copies of this Document and Other Related Documents?

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

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51965. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, any test data submitted by the manufacturer/importer and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51965 and the specific PMN number in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. 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) 260–7093.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51965 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person 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 control number assigned to this action 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 January 29, 2001 to February 9, 2001, consists of the PMNs and TMEs, both 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 and TMEs

This status report identifies the PMNs and TMEs, both 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. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, 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.

TABLE I. 30 PREMANUFACTURE NOTICES RECEIVED FROM: 01/29/01 TO 02/09/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0313	02/05/01	05/06/01	CBI	(G) Open, non-dispersive use	(G) Alkanoic acid diester
P–01–0314	02/05/01	05/06/01	Solutia Inc.	(S) Wet strength agent for industrial paper	(G) Modified melamine formaldehyde resin
P–01–0315	02/05/01	05/06/01	CBI	(G) Open non-dispersive (urethane)	(G) Urethane acrylate dispersion
P–01–0316	02/05/01	05/06/01	Dow Corning Corporation	(S) Chemical intermediate	(G) Methylvinysiloxane
P–01–0317	02/05/01	05/06/01	3M Specialty Materials	(S) Adhesion promoter	(G) Silyl derivative
P–01–0318	02/05/01	05/06/01	CBI	(G) Surfactant	(G) Alkylpolyether
P–01–0319	02/05/01	05/06/01	Dow Corning Corporation	(S) Silicone release coating polymer	(G) Vinyl-terminated polydimethylsiloxane
P–01–0320	02/06/01	05/07/01	3M Company	(S) Heat trasnfer fluid; refrigerant	(S) Propane, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-
P–01–0321	02/06/01	05/07/01	Mitsui Chemicals America, Inc.	(G) Color developing agent	(S) Zinc, bis[2-(hydroxy-ko)-4-[[(octylox-y)carbonyl]amino]benzoato-ko]-, (t-4)-
P–01–0322	02/07/01	05/08/01	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, polymers with fatty amines and ethylenediamine
P–01–0323	02/07/01	05/08/01	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, hydrogenated, polymers with fatty amines and ethylenediamine
P–01–0324	02/07/01	05/08/01	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, polymers with fatty amines, ethyl-enediamine and hexamethylenediamine
P–01–0325	02/07/01	05/08/01	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, hydrogenated, polymers with fatty amines, ethylenediamine and hexamethylenediamine
P–01–0326	02/07/01	05/08/01	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, polymers with fatty amines, ethyl-enediamine and sebacic acid
P–01–0327	02/07/01	05/08/01	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, hydrogenated, polymers with fatty amines, ethylenediamine and se-bacic acid
P–01–0328	02/07/01	05/08/01	CBI	(G) Printing inks	(G) Rosin, fumarated, polymers with polyols and a monocarboxylic acid
P–01–0329	02/07/01	05/08/01	CBI	(G) Printing inks	(G) Rosin, fumarated, polymers with polyols and a monocarboxylic acid

TABLE I. 30 PREMANUFACTURE NOTICES RECEIVED FROM: 01/29/01 TO 02/09/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0330	02/07/01	05/08/01	CBI	(G) Printing inks	(G) Rosin, fumarated, polymers with polyol and a monocarboxylic acid
P–01–0331	02/07/01	05/08/01	CBI	(G) Printing inks	(G) Rosin, fumarated, polymers with polyol and a monocarboxylic acid
P–01–0332	02/07/01	05/08/01	CBI	(G) Coating binder component	(G) Cathodic epoxy dispersion resin
P–01–0333	02/07/01	05/08/01	CBI	(G) Coating binder component	(G) Cathodic epoxy dispersion resin
P–01–0334	01/30/01	04/30/01	CBI	(S) Resin for coating	(G) Polyether functional acrylic polymer
P–01–0335	02/08/01	05/09/01	CBI	(G) Open, non-dispersive use	(G) Acrylic latex
P–01–0336	02/08/01	05/09/01	CBI	(G) Open, non-dispersive use in energy production	(G) Sodium polyalkylene sulfonate
P–01–0337	02/08/01	05/09/01	CBI	(G) Open, non-dispersive use	(G) Acrylic latex
P–01–0338	02/08/01	05/09/01	CBI	(G) Nonwoven binder	(G) Styrene/acrylic copolymer
P–01–0339	02/08/01	05/09/01	Image Polymers Company	(S) Toner binder	(S) 1,3-benzenedicarboxylic acid, polymer with 1,3-diisocyanatomethylbenzene, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, hexanedioic acid and alpha, alpha′-[(1-methylethylidene)di-4,1-phenylene]bis[omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)]], benzoate
P–01–0340	02/09/01	05/10/01	Finetex, Inc.	(S) Textile fiber lubricant with high thermal stability; dispersant for titanium dioxide, zinc oxide, pigments etc; plasticizer for polymer systems requiring high thermal stability	(S) 9-octadecenoic acid, 12-(benzoyloxy)-, hexadecyl ester, [r-(z)]-
P–01–0341	02/09/01	05/10/01	Ashland Inc., Environmental Health & Safety	(G) Catalyst for binder resin reactions	(G) Dimethylpropylamine
P–01–0342	02/09/01	05/10/01	CBI	(S) Carbon dopant in the manufacture of thin film compound semiconductors	(G) Metalorganics

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

TABLE II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 01/29/01 TO 02/09/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–01–0009	02/05/01	03/22/01	CBI	(S) Intermediate in organic synthesis	(S) Oxazole

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

TABLE III. 18 NOTICES OF COMMENCEMENT FROM: 01/29/01 TO 02/09/01

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0321	02/02/01	01/25/01	(G) Polyamide amine epichlorohydrin resin
P–00–0322	02/02/01	01/25/01	(G) Polyamide amine epichlorohydrin resin
P–00–0323	02/02/01	01/25/01	(G) Polyamide amine epichlorohydrin resin
P–00–0324	02/02/01	01/25/01	(G) Polyamide amine epichlorohydrin resin
P–00–0325	02/02/01	01/25/01	(G) Polyamide amine
P–00–0636	01/30/01	01/19/01	(G) Alkylated nitroso-phenylenediamine
P–00–0793	02/08/01	01/23/01	(G) Acrylic solution polymer
P–00–1059	02/06/01	01/11/01	(G) Alkylstyryl polyurea resin
P–00–1076	02/09/01	01/15/01	(G) Acrylic copolymer salt
P–00–1107	02/02/01	01/31/01	(G) Polycarboxylate based on natural fatty acids

TABLE III. 18 NOTICES OF COMMENCEMENT FROM: 01/29/01 TO 02/09/01—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–1180	02/06/01	01/08/01	(G) Polyurethane acrylate copolymer
P–00–1190	02/09/01	12/20/00	(G) Glycidyl substituted bicyclic olefin
P–01–0015	02/01/01	01/18/01	(G) Alkyl polysaccharide derivative
P–01–0016	02/01/01	01/25/01	(G) Sugar acrylate copolymer
P–01–0017	02/01/01	01/19/01	(G) Sugar acrylate copolymer
P–01–0041	02/05/01	01/31/01	(G) Hydroxy functional acrylic polymer
P–98–1013	01/29/01	12/15/00	(G) Alkylaminium alkoxylate alkylalkoxylate phosphate; or linear alkylamine ethoxylate, complex with branched alkylethoxylate phoshate
P–99–1302	01/30/01	01/05/01	(G) Substituted anthraquinone

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: March 7, 2001,

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–7643 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51966; FRL–6776–7]

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 February 12, 2001 to February 28, 2001, 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. The ''S'' and ''G'' that precede the chemical names denote whether the chemical identity is specific or generic.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51966 and the specific PMN number in the subject line on the first page of your response.

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

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 Additional Information, Including Copies of this Document and Other Related Documents?

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

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51966. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, any test data submitted by the manufacturer/importer and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51966 and the specific PMN number in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. 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) 260–7093.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51966 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person 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 control number assigned to this action 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 February 12, 2001 to February 28, 2001, 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. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, 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.

TABLE I. 61 PREMANUFACTURE NOTICES RECEIVED FROM: 02/12/01 TO 02/28/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0343	02/12/01	05/13/01	Ashland Inc.	(G) Adhesive, coating	(G) Multifunctional acrylate resin
P–01–0344	02/12/01	05/13/01	CBI	(G) Resin coating	(G) Polyester resin
P–01–0345	02/13/01	05/14/01	CBI	(G) Coating intermediate	(G) Polyester resin
P–01–0346	02/13/01	05/14/01	Estron Chemical, Inc.	(S) Flow control additive for industrial coatings	(G) Acrylic polymer
P–01–0347	02/13/01	05/14/01	Wacker Silicones Corporation	(S) Polishes	(G) Polyalkyl(fluoroalkyl)siloxane(s)
P–01–0348	02/13/01	05/14/01	Ashland Inc.	(G) Adhesive	(G) Copolymer of acrylic esters and styrene
P–01–0349	02/13/01	05/14/01	CBI	(G) Mold release agent	(G) Sorbitan derivative
P–01–0350	02/13/01	05/14/01	Wacker Silicones Corporation	(S) Emulsifier	(G) Polydialkylsiloxane with polyglucoside containing groups
P–01–0351	02/14/01	05/15/01	Loctite Corporation	(S) Hotmelt adhesives for the woodworking industry and general structural boding applications	(S) 1,3-benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, 2,2-dimethyl-1,3-propanediol, dodecanedioic acid, 1,2-ethanediol, hexanedioic acid, 1,6-hexanediol and 1,1′-methylenebis[4-isocyanatobenzene]

TABLE I. 61 PREMANUFACTURE NOTICES RECEIVED FROM: 02/12/01 TO 02/28/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0352	02/14/01	05/15/01	Laporte Speciality Inc	(G) Sealant	(G) Isomeric long chain alkyl methacrylates
P–01–0353	02/14/01	05/15/01	CBI	(G) Paint, coating, plastic additive, open, non-dispersive use	(G) Dimethylthiazine-indigo
P–01–0354	02/13/01	05/14/01	Vantico Inc.	(S) Hardener for epoxy coatings for flooring and walls	(G) 2-propenoic acid, polymer with an alkyl polyamine
P–01–0355	02/15/01	05/16/01	CBI	(S) Chemical intermediate for further reaction	(G) *N,n′* substituted aniline sulfonic acid, sodium salt
P–01–0356	02/15/01	05/16/01	CBI	(S) Chemical intermediate for further reaction	(G) *N,n′* substituted aniline sulfonic acid, potassium salt
P–01–0357	02/15/01	05/16/01	CBI	(S) Chemical intermediate for further reaction	(G) *N,n′* substituted aniline sulfonic acid, compd. with 2,2′,2′′-nitrilotris[ethanol]
P–01–0358	02/15/01	05/16/01	CBI	(S) Resin for interior auto plastic;additive for clear floor finishes;resin for industrial wood	(G) Polyether polyurethane methacrylic graft copolymer
P–01–0360	02/16/01	05/17/01	CBI	(S) Industrial coatings for plastics in automotive use and for construction elements (e.g window frames)	(G) Hexanedioic acid, polymer with 1,4-butanediol, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine, 1,6-hexanediol, oxyalkylpropanoic acid and 5-isocyanato-1-(isocyanatomethyl)-alkylcyclohexane
P–01–0361	02/16/01	05/17/01	CBI	(S) Raw material used in the manufacture of dry film resist	(G) Polypropylenegylcol diacrylate
P–01–0362	02/16/01	05/17/01	CBI	(S) Drilling mud additive	(G) Modified humic acid, substituted with acrylates and styrene
P–01–0363	02/16/01	05/17/01	CBI	(G) Precursor to polymers used as structural components	(G) Polycarbonate
P–01–0364	02/20/01	05/21/01	CBI	(G) Industrial coating	(G) Urethane acrylate polymer
P–01–0365	02/20/01	05/21/01	CBI	(G) Additive, open, non-dispersive use	(G) Polyacrylate, modified with siloxane
P–01–0366	02/20/01	05/21/01	CBI	(G) Corrosion inhibitor for steel	(G) Salts of sulfated fatty acid
P–01–0367	02/20/01	05/21/01	CBI	(G) Corrosion inhibitor for steel	(G) Salts of sulfated fatty acid
P–01–0368	02/20/01	05/21/01	CBI	(G) Corrosion inhibitor for steel	(G) Salts of sulfated fatty acid
P–01–0369	02/20/01	05/21/01	CBI	(G) Corrosion inhibitor for steel	(G) Salts of sulfated fatty acid
P–01–0370	02/20/01	05/21/01	CBI	(G) Corrosion inhibitor for steel	(G) Salts of sulfated fatty acid
P–01–0371	02/20/01	05/21/01	CBI	(G) Corrosion inhibitor for steel	(G) Salts of sulfated fatty acid
P–01–0372	02/20/01	05/21/01	DIC Trading (USA) Inc.	(G) Sizing compound	(G) Polyurethane emulsion
P–01–0373	02/20/01	05/21/01	Solutia Inc.	(S) Binder for industrial coatings	(G) Modified polyurethane dispersion
P–01–0374	02/21/01	05/22/01	CBI	(G) Multi-purpose adhesive, open, non-dispersive use; laminating adhesive, open, non-dispersive use; edgebanding adhesive, open, non-dispersive use	(G) Polyurethane prepolymer; polyurethane adhesive
P–01–0375	02/21/01	05/22/01	Johnson Polymer	(G) Open, non-dispersive use	(G) Styrene acrylic polymer
P–01–0376	02/21/01	05/22/01	CBI	(G) Industrial coating	(S) 2-propenoic acid, 2-ethyl-, methyl ester, polymer with 2-ethylhexyl 2-peopenoate and 2-hydroxy methyl 2-propenoate
P–01–0377	02/21/01	05/22/01	CBI	(S) Crosslinker for waterborn polyurethane topcoats	(G) Carbodiimide crosslinker
P–01–0378	02/21/01	05/22/01	Heidelberg Digital L.L.C.	(G) Contained use in an article	(G) Substituted salicic acid ester, polymer with alkanediol, substituted polyalkanediyl, tetrasubstituted diisocyanotocyclohexane, and trisubstituted isocyanato alkysilane
P–01–0379	02/21/01	05/22/01	Solutia Inc.	(S) Binder for industrial coatings	(G) Modified polyurethane resin
P–01–0380	02/22/01	05/23/01	Polaroid Corporation	(G) Component of manufactured consumer article- contained use	(S) 1,2-benzisothiazole-2(3h)-carboxylic acid, 3,3-bis(4-hydroxy-3,5-dimethoxyphenyl)-, 2-(methylsulfonyl)ethyl ester, 1,1-dioxide
P–01–0381	02/21/01	05/22/01	Kelmar Industries	(S) Textile softener	(G) Grafted mercaptosiloxane(s)
P–01–0382	02/22/01	05/23/01	Teknor Apex Company	(S) Plasticizer for flexible pvc	(S) 1,2-benzenedicarboxylic acid, di-C_{7-14}-branched and linear alkyl esters

TABLE I. 61 PREMANUFACTURE NOTICES RECEIVED FROM: 02/12/01 TO 02/28/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0383	02/22/01	05/23/01	Teknor Apex Company	(S) Plasticizer for flexible pvc	(S) 1,2-benzenedicarboxylic acid, di-C_{6-14}-branched and linear alkyl esters
P–01–0384	02/23/01	05/24/01	CBI	(G) Colorant for aqueous ink applications	(G) Polyoxyalkylene, alkylene succinate polyester
P–01–0385	02/23/01	05/24/01	CBI	(G) Colorant for aqueous ink applications	(G) Polyoxyalkylene, alkylene succinate polyester
P–01–0386	02/23/01	05/24/01	CBI	(G) Colorant for aqueous ink applications	(G) Polyoxyalkylene, alkylene succinate polyester
P–01–0387	02/23/01	05/24/01	CBI	(G) Colorant for aqueous ink applications	(G) Polyoxyalkylene, alkylene succinate polyester
P–01–0388	02/23/01	05/24/01	CBI	(G) Colorant for aqueous ink applications	(G) Polyoxyalkylene, alkylene succinate polyester
P–01–0389	02/26/01	05/27/01	Solutia Inc.	(S) Resin for can and tube coatings	(G) Modified phenolic resin
P–01–0390	02/27/01	05/28/01	CBI	(G) Polymer for contained commercial/consumer use (incorporated into an article)	(G) 2-5-furandione, polymer with ethene derivative, propyl ester
P–01–0391	02/27/01	05/28/01	Solutia Inc.	(S) Resin for can and tube coatings	(G) Modified phenolic resin
P–01–0392	02/27/01	05/28/01	CBI	(S) Bottle label adhesive	(G) Polyacrylate polymer
P–01–0393	02/27/01	05/28/01	CBI	(S) Bottle label adhesive	(G) Polyacrylate polymer
P–01–0394	02/27/01	05/28/01	CBI	(S) Bottle label adhesive	(G) Polyacrylate polymer
P–01–0395	02/27/01	05/28/01	CBI	(S) Bottle label adhesive	(G) Polyacrylate polymer
P–01–0396	02/27/01	05/28/01	CBI	(S) Bottle label adhesive	(G) Polyacrylate polymer
P–01–0397	02/27/01	05/28/01	CIBA Specialty Chemicals Corporation	(G) Contained use within reaction vessels, some loss to process sewer	(G) Dihydro quinacridone derivative
P–01–0398	02/28/01	05/29/01	Dystar L. P.	(S) Dyestuff for the coloration of cellulose	(G) 2-naphthalenesulfonic acid, 5,5′-(substituted) bis[8-[(substituted)azo]-, tetrasodium salt
P–01–0399	02/28/01	05/29/01	CBI	(G) Additive, open, non-dispersive use	(G) Polyacrylate, salt with polyalkylene glycolbutylether, phosphate
P–01–0400	02/28/01	05/29/01	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–01–0401	02/28/01	05/29/01	CBI	(G) Open, non-dispersive use	(G) Acetoacetate functional acrylic polymer
P–01–0402	02/28/01	05/29/01	CBI	(G) Open, non-dispersive use	(G) Hydroxy functional acrylic polymer
P–01–0403	02/28/01	05/29/01	CBI	(G) Open, non-dispersive use	(G) Aceto acetate functional epoxy
P–01–0404	02/28/01	05/29/01	CBI	(G) Open, non-dispersive use	(G) Dual functional acrylic resin

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

TABLE II. 34 NOTICES OF COMMENCEMENT FROM: 02/12/00 TO 02/28/01

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0071	02/26/01	02/05/01	(G) Alkanepolycarboxylic acid, alkyl ester
P–00–0098	02/27/01	01/27/01	(G) Fatty acid amide
P–00–0262	02/13/01	01/30/01	(G) Imidazole functional polyalkyl acrylate
P–00–0400	02/21/01	01/18/01	(S) 2,7-naphthalenedisulfonic acid, 6-amino-4-hydroxy-3-[[7-sulfo-4-[(4-sulfophenyl)azo]-1-naphthalenyl]az0]-, compd. with 2,2′,2″-nitrilotris[ethanol](1:4)
P–00–0501	02/16/01	02/07/01	(G) Sodium phenolate
P–00–0566	02/21/01	02/09/01	(G) Azo violet pigment
P–00–0688	02/13/01	01/25/01	(G) Diol
P–00–0754	02/16/01	02/14/01	(G) Blocked aromatic isocyanate
P–00–0769	02/27/01	02/20/01	(G) Modified carbamate acrylic polymer
P–00–0783	02/15/01	01/26/01	(G) Sodium derivatives of modified alkali lignin reaction products with formaldehyde
P–00–0923	02/23/01	02/05/01	(G) Polyurea-polyurethane dispersion
P–00–1010	02/13/01	02/01/01	(G) Quaternary aromatic sulfonate
P–00–1097	02/13/01	01/10/01	(S) Aluminoxanes, iso-bu, branched, cyclic and linear
P–00–1101	02/28/01	02/02/01	(G) Alkyl silsesquioxanes

TABLE II. 34 NOTICES OF COMMENCEMENT FROM: 02/12/00 TO 02/28/01—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–1147	02/20/01	01/24/01	(S) 1,4-benzenedicarboxylic acid, polymer with *n*–(2-aminoethyl)-1,2-ethanediamine, sulfate
P–00–1160	02/27/01	02/06/01	(G) Styrene-methacrylate copolymer
P–00–1183	02/27/01	02/17/01	(G) Aliphatic polyurethane resin
P–01–0022	02/22/01	01/26/01	(S) Propanoic acid, 2-(trimethoxysilyl)-, ethyl ester
P–01–0028	02/20/01	02/08/01	(G) Hydroxy functional acrylic polymer
P–01–0029	02/20/01	01/31/01	(G) Dimethicone copolyol polyacrylate
P–01–0030	02/13/01	01/30/01	(G) Polyurethane prepolymer
P–01–0036	02/26/01	02/08/01	(G) Polyalkenyl succinimide, ammonium salt
P–01–0044	02/28/01	01/30/01	(G) Cationic epoxy dispersion
P–98–1048	02/27/01	02/09/01	(S) 3-furancarboxaldehyde, tetrahydro-
P–99–0991	02/26/01	01/22/01	(G) Calcium long chain alkaryl phenate sulfide
P–99–1003	02/26/01	01/21/01	(G) Long chain alkyphenol
P–99–1023	02/26/01	01/21/01	(G) Calcium salts of alkyl salicylate and alkyl phenate sulfide
P–99–1026	02/26/01	01/21/01	(G) Calcium salts of alkyl salicylate and aklyl phenate
P–99–1074	02/26/01	01/26/01	(G) Condensation product of an alkyl phenol, an alkylamine and formaldehyde, calcium salt
P–99–1076	02/26/01	01/27/01	(G) Mixed calcuim salts of a mannich base and a long chain alkaryl calcium phenate sulfide
P–99–1078	02/26/01	01/26/01	(G) Condensation product of an alkyl phenol, an alkylamine and formaldehyde
P–99–1149	02/26/01	02/15/01	(G) Calcium long chain alkyl phenate sulfide
P–99–1346	02/16/01	01/24/01	(S) 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyltriethoxy silane
P–99–1392	02/23/01	02/16/01	(G) Hydroxy functional oligomer

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: March 15, 2001,

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–7642 Filed 3–27–01; 8:45 am]

BILLING CODE 6560–50–S

Federal Register

Wednesday,
March 28, 2001

Part IV

Department of Commerce

Bureau of the Census

Urban Area Criteria for Census 2000—Proposed Criteria; Notice

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 010209034–1034–01]

RIN Number 0607–XX63

Urban Area Criteria for Census 2000—Proposed Criteria

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of Proposed Criteria and Request for Public Comment.

SUMMARY: This Notice provides the Bureau of the Census' (Census Bureau's) proposed criteria for defining urban and rural territory based on the results of Census 2000. It also provides a description of the changes from the criteria used for the 1990 census. The Census Bureau identifies and classifies urban and rural population and delineates urbanized areas (UAs) after each decennial census using criteria that originated with the 1950 census. Since the 1950 census, the Census Bureau has reviewed and revised these criteria for each decennial census. These criteria revisions over the years reflect the Census Bureau's desire to improve the classification of urban and rural population by refining the criteria to take advantage of improvements in data collection and reporting methodologies as well as advancements in technology.

Since the 1990 census, significant technological advancements, together with already existing nationwide block numbering (which was initiated with the 1990 census), has made it possible to classify urban and rural territory on a uniform basis. The Census Bureau proposes a number of significant changes to the criteria for classification of urban and rural population to make use of this opportunity to meet its objective of a uniform result nationwide.

The Census Bureau identifies and tabulates data for the urban and rural population and territory solely for the purpose of statistical presentation and comparison. It does not take into account or attempt to anticipate any nonstatistical uses that may be made of these areas or their associated data, nor does it attempt to meet the requirements of such nonstatistical program uses. Nonetheless, the Census Bureau recognizes that some federal and state agencies are legally required to use the Census Bureau-defined urban and rural classifications for allocating program funds, setting program standards, and implementing aspects of their programs. The agencies that make such nonstatistical uses of the areas and data should be aware that the changes to the urban and rural criteria also might affect the implementation of their programs.

If a federal, state, local, or tribal agency voluntarily uses these urban and rural criteria in a nonstatistical program, it is that agency's responsibility to ensure that the results are appropriate for such use. In considering the appropriateness of such nonstatistical program uses, the Census Bureau urges each agency to consider permitting appropriate modifications of the results of implementing the urban and rural criteria specifically for the purposes of its program. When a program permits such modifications, the Census Bureau urges each agency to use descriptive terminology that clearly identifies the different criteria being applied so as to avoid confusion with the Census Bureau's official urban and rural classifications.

DATES: Any comments, suggestions, or recommendations concerning this Census 2000 proposed program in this notice should be submitted in writing April 27, 2001.

ADDRESSES: Address all written comments to the Director, U.S. Census Bureau, Room 2049, Federal Building 3, Washington, DC 20233–0001.

FOR FURTHER INFORMATION CONTACT: Robert Marx, Chief, Geography Division, Census Bureau, Room 651, WP–1, Washington, DC 20233–7400, telephone (301) 457–1099–2131, or e-mail (*rmarx@geo.census.gov*).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Regulatory Flexibility Act

Because a notice of program criteria is not required by Title 5, United States Code (U.S.C.), section 553 or any other law, a Regulatory Flexibility Analysis is not required and has not been prepared (5 U.S.C. 603 (a)).

Paperwork Reduction Act

This program notice does not represent a collection of information subject to the requirements of the Paperwork Reduction Act, Title 44, U.S.C., Chapter 35.

Criteria

The following criteria will apply to the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico. The Census Bureau may apply these criteria to other areas as well.

I. Census 2000 Urbanized Area and Urban Cluster Definitions

For Census 2000, an urbanized area (UA) will consist of a densely settled core of census block groups (BGs) [1] and census blocks [2] that meet minimum population density requirements, along with adjacent densely settled surrounding census blocks that together encompass a population of at least 50,000 people, at least 35,000 of whom live in an area that is not part of a military installation. For Census 2000, an urban cluster (UC) will consist of a densely settled core of census BGs and census blocks that meet minimum population density requirements, along with adjacent densely settled surrounding census blocks that together encompass a population of at least 2,500 people, but fewer than 50,000 people, or greater than 50,000 people if fewer than 35,000 of them live in an area that is not part of a military installation. All criteria based on land area, population, and population density will reflect the information contained in the Census Bureau's Topologically Integrated Geographic Encoding and Referencing (TIGER) data base and the population counts from the official Census 2000 redistricting data file.

A. The ''densely settled core'' of a UA or UC shall include the following:

1. One or more contiguous [3] census BGs that have a total land area less than or equal to 2 square miles and a population density of at least 1,000 people per square mile (ppsm) [4] (Figures 1 and 6.). (Please note that all illustrative figures are attachments located at the end of the document.)

2. One or more contiguous census blocks that have a population density of at least 1,000 ppsm, if no qualifying BG exists.

3. One or more census BGs that have a land area less than or equal to 2 square miles, a population density of at least 500 ppsm, and that are contiguous with the census BGs and census blocks identified by criterion I.A.1. (Figures 1 and 6).

[1] A census block group (BG) is a group of census blocks within a census tract whose numbers begin with the same digit; for example, BG 3 within a census tract includes all census blocks numbered from 3000 to 3999.

[2] A census block is an area normally bounded by visible features, such as streets, streams, and railroads, and by nonvisible features, such as the boundary of an incorporated place, minor civil division, county, or other Census 2000 tabulation entity.

[3] Contiguity requires at least one point of intersection.

[4] Population density is calculated by dividing the total population of the census BG or census block by the land area of that BG or block.

4. One or more contiguous census blocks that have a population density of at least 500 ppsm and that are contiguous with the qualifying census BGs and census blocks identified by criterion I.A.1., I.A.2., or I.A.3. (Figures 2 and 7).

5. The Census Bureau will include in the core any noncontiguous census BG(s) and/or census block(s) that otherwise qualifies based on population density and land area if it can be reached using a ''hop'' connection. That is, if the distance to the core is no greater than 0.5 miles, and it is connected to the core by one or more nonqualifying census blocks that:

a. When combined, have the highest population density along the shortest road connection, and

b. Has a combined population density of at least 500 ppsm, or

c. The least populated area (core or noncontiguous census BG(s) or census block(s) has a population greater than or equal to 1,000 (Figures 3 and 9).

6. Census BGs and/or census blocks surrounded by the core, as defined above, provided the BGs or blocks contain fewer than 5 square miles [5] (Figure 8).

7. Census BGs and/or blocks that are indentations into the core, as long as the indentation is no longer than 1 mile across the open end, and has a length at least three times greater than the distance across the open end (Figure 8).

B. Census BGs and/or census blocks adjacent to a UA or UC core consists of the following:

1. Territory made up of one or more contiguous census blocks, with a population density of at least 500 ppsm, that are not contiguous to the core, provided that the core of the UA or UC has a population of at least 1,000, and that the contiguous blocks are within the distance of either a jump, a jump plus one or more hops, or an uninhabitable territory connection.

2. The following connection criteria determine the method used for connecting densely settled noncontiguous territory to the qualifying core of a UA or UC:

a. The Census Bureau will include additional noncontiguous area in a UA or UC using a ''jump'' connection if the noncontiguous area is within 2.5 miles of the main body of a core that has a total population of at least 1,500 people, and is connected to it by one or more nonqualifying census blocks that:

(1) Are adjacent to a road connection;

(2) When combined, have the highest population density along the connection; and

(3) Together with the qualifying outlying blocks/BGs, have a combined population density of at least 500 ppsm (Figures 3 and 10), or the noncontiguous qualifying blocks/BGs has a total population greater than or equal to 1,000.

The Census Bureau will not include additional noncontiguous area in a UA or UC if the connection required to include it is greater than 0.5 miles and the link required to connect the additional area starts from territory already qualifying under criterion I.B.1.b.

b. For territory added using a jump, the Census Bureau will include additional noncontiguous area in a UA or UC that is connected to territory added using a jump by using a ''hop'' connection if the distance between the UA or UC is within 0.5 miles of qualifying territory, and connected to it by one or more nonqualifying census blocks that:

(1) When combined, have the highest population density along the shortest road connection; and

(2) Together with the outlying qualifying territory, have a combined population density of at least 500 ppsm (Figures 3 and 9), or the noncontiguous qualifying territory has a total population greater than or equal to 1,000. Hop connections are allowed after jump connections as long as the conditions in criterion I.B.1.b. still apply.

c. The Census Bureau will include uninhabitable territory [6] to the main body of the core or adjacent qualifying territory if the area to connect it is within 5 road miles, and as long as the 5 miles include no more than 2.5 miles of otherwise habitable territory. In addition, one of the following conditions must be met:

(1) The noncontiguous qualifying territory has a total population greater than or equal to 1,000; or

(2) The overall population density of the linking and noncontiguous qualifying territory (excluding water) has a total population density of at least 500 ppsm (Figure 4).

Hops are allowed after uninhabitable territory connections as long as the conditions in criterion I.B.1.a. still apply.

3. Other territory with a population density of less than 500 ppsm, provided that it:

a. Eliminates an enclave of no more than 5 square miles in the territory otherwise qualifying for a UA or UC when the surrounding territory qualifies on the basis of population density, or

b. Closes an indentation in the boundary of the territory otherwise qualifying for inclusion in a UA or UC if the contiguous territory qualifies on the basis of population density, provided that the indentation:

(1) Is no more than 1 mile across the open end;

(2) Has a length at least 3 times greater than the distance across the open end;

(3) Is closeable by means of a census block boundary located across or close to its open end; and

(4) Encompasses no more than 5 square miles.

4. As a result of the UA and UC delineation, an incorporated place [7] or census designated place (CDP) [8], may be partially within and partially outside of a UA or UC. Any place that is split by a UA or UC boundary is referred to as an extended place (Figures 5 and 11).

II. UA and UC Central Places

The Census Bureau will identify one or more central places for each UA and UC (if an incorporated place or CDP exists within the UC) using the following criteria:

A. The UA or UC central place is an incorporated place or CDP with the most population within the UA or UC. Additional places may become UA or UC central places provided that:

1. The place's population within a UA or UC exceeds 50,000 people; or

2. The place's population is at least ⅔ of the most populous UA or UC central place.

[5] Census BGs and/or census blocks are defined as ''surrounded'' if the boundary of the BG or block completely borders the core. Additionally, bodies of water wider than one mile across are excluded from the equation, so that a census BG and/or census block completely surrounded by the core and excluded water bodies are included in the core.

[6] Uninhabitable territory is defined as territory in which residential development is not possible; that is, it consists of bodies of water, national parks and monuments, and military installations. Water is an example of a topographic situation in which habitation is not possible due to a physical limitation. National parks, such as Yellowstone and Yosemite, and military installations are examples of territory in which habitation is restricted due to governmental regulations. Because the Census Bureau does not maintain an extensive land use data base for the entire country, only the aforementioned land use types, which are included within the Census Bureau's TIGER data base, will be used when distinguishing between habitable and uninhabitable territory.

[7] An incorporated place is a governmental unit designated as a city, town (except in New England and Wisconsin), village, or borough (except in New York and Alaska), and includes all consolidated cities.

[8] A census designated place (CDP) is a statistical equivalent of an incorporated place and represents a locally defined named area. CDPs include comunidades and zonas urbana in Puerto Rico.

III. UA and UC Titles and Codes

The title of a UA or UC identifies the place(s) that is (are) most populated within the UA or UC. All population requirements for places and minor civil divisions [9] (MCDs) apply to the population of the place or MCD that is within the specific UA or UC being named.

A. UA and UC Titles

The following criteria are used to determine UA and UC titles:

1. The UA or UC title includes the name of the incorporated place with the most population within the UA or UC (minimum population of 2,500). As many as two additional incorporated place names can be part of the UA or UC title. Additional incorporated place names are added to the title, provided that either the incorporated place's UA or UC population exceeds 250,000 people or the incorporated place has both (1) a UA or UC population of at least 2,500 and (2) a UA or UC population that is at least ⅔ of the total in the most populous place in the UA or UC.

If the UA or UC does not contain an incorporated place having at least 2,500 people, the UA or UC title will include the single name that occurs first from the following list:

a. The nonmilitary CDP with the largest population within the UA or UC, if its population is at least 2,500;

b. The incorporated place with the largest population within the UA or UC;

c. The nonmilitary CDP with the largest population within the UA or UC;

d. The military CDP with the largest population within the UA or UC;

e. The governmental MCD with the largest population within the UA or UC; or

f. A local name recognized for the area by the United States Geological Survey's Geographic Names Information System, with preference given to post office names recognized by the United States Postal Service (USPS).

2. The criterion for the sequence of place or MCD names in the UA or UC title consists of the qualifying names in descending order of their Census 2000 population within the UA or UC.

3. The UA or UC title will include the USPS abbreviation of the name of each state into which the UA or UC extends. The order of the state names is the same as the order of the related place or MCD names in the UA or UC title. For UAs or UCs that extend into states in which there are no place names as part of the UA or UC title, the names of these states are included in descending order of the state's Census 2000 population within the UA or UC.

4. If a single place or MCD qualifies as the title of more than one UA or UC, the largest UA or UC will use the name of the place or MCD. The smaller UA or UC will have a title consisting of the place or MCD name and a compass directional. The compass directional will generally describe the location of the lesser populated UA or UC; for example, a UA titled Allenville and a UC titled Allenville South.

5. If any name in a UA or UC name duplicates a name in another UA or UC within the same state, the name of the county that has most of the population of the largest place or MCD will be appended after the duplicate place or MCD name in parentheses for each UA or UC. If there is no central place or MCD, then the name of the county with the greatest population residing in the UA or UC will be appended. For example, Springfield (Ames County), OH, and Springfield (Jefferson County), OH.

B. UA and UC codes

The Census Bureau will assign a 5-digit numeric code to each UA and UC. The code will be based on an alphabetic sequence of all UA and UC names, and sequenced by state code where names repeat.

IV. Splitting UAs

The Census Bureau uses the geographic structure of metropolitan areas (MAs), which includes metropolitan statistical areas (MSAs), consolidated metropolitan statistical areas (CMSAs), and primary metropolitan statistical areas (PMSAs) to determine when to define separate contiguous UAs.[10] After delineating the boundary of each UA, the Census Bureau will examine the relationship between the UAs and any MSA, CMSA, or PMSA using the following criteria to determine if the UAs should be split and, if so, where the boundary should be located between these UAs:

A. UA Split Criteria

The Census Bureau will split UAs when the following conditions exist:

1. Two or more qualifying UAs are in different MSAs or PMSAs, and the distance along which their areas are contiguous is less than 3 miles.

The split will occur at the location nearest the MSA or PMSA boundary along which their area of contiguity is less than 3 miles.

2. Two or more qualifying UAs are in different CMSAs, and the distance along which their areas are contiguous is less than 3 miles. The split will occur at the CMSA boundary.

V. Urban and Rural Classification

The Census Bureau will classify as urban all population residing within the boundaries of UAs and UCs. Conversely, the Census Bureau will classify as rural all population and territory that are not within any UA or UC.

VI. Differences Between the Proposed Census 2000 UA Criteria and the 1990 Census UA Criteria

The following summary describes the most important differences between the 1990 census UA criteria and the UA criteria proposed for Census 2000:

A. The Census Bureau will not automatically recognize previously existing UA territory for Census 2000 UA delineation. There will be no ''grandfathering'' of areas that qualified for earlier censuses. In past censuses, the Census Bureau generally included all territory from previous UA [11] delineations. Grandfathering was used extensively in past censuses.

Grandfathering creates a significant impediment when trying to implement UA criteria changes. When areas that would not qualify under new criteria are retained within UAs due to the use of ''grandfathering,'' this diminishes the effect of the new criteria by retaining areas that the new criteria otherwise would exclude. Therefore, ''grandfathering'' creates an uneven application of the criteria where similar nonqualifying areas are either retained or excluded from different UAs based solely on ''grandfathering.''

B. The Census Bureau will use UCs rather than places to determine the total urban population outside of UAs. Previously, place boundaries were used to determine the urban and rural classification of territory outside of UAs; all incorporated places that had at least 2,500 people had all or part (based on the extended city criteria) of their population classified as urban. The entire land area and population of all CDPs with a population of at least 2,500

[9] A minor civil division is a legal subdivision of a county or statistically equivalent entity. Governmental MCDs exist in Connecticut, Illinois, Indiana, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, and Wisconsin.

[10] The Census Bureau considers two UAs to be contiguous if they share a common boundary line (not simply a point), and the area on each side of this shared boundary qualifies for inclusion in its respective UA based on the minimum population density criterion of 500 ppsm.

[11] The Census Bureau did not include previously existing territory within a UA for the 1990 census if the population of the pre-existing UA fell below a total population of 50,000.

people were classified as urban because the extended city criteria did not apply to CDPs. With the creation of UCs, place boundaries are ''invisible'' when creating and classifying the cores of densely settled population agglomerations.

Urban classification, based solely on the boundaries of incorporated places and CDPs, is very uneven and limited. Urban classification of a place outside of a UA stopped at the place's boundary. Densely settled areas that were adjacent to a qualifying place were not classified as urban. Areas that were densely settled and included more than 2,500 inhabitants, but did not include a place with a population of at least 2,500, were classified as rural. CDPs that were overbounded, containing little densely settled area, but with a population of at least 2,500, always were classified as entirely urban.

The UC concept, based only on census BG and census block density, does not recognize incorporated place or CDP boundaries (except where the boundaries serve as qualifying BG or block boundaries). Densely settled qualifying agglomerations of 2,500 or more people qualify regardless of the total population, or even the existence, of incorporated places or CDPs. This eliminates bias by removing the effect of state laws governing incorporation and annexation or of local participation in the CDP program.

C. The extended city criteria are extensively modified for 2000. Any place that is split by a UA or UC boundary is referred to as an extended place. Previously, sparsely settled areas were examined using density and area measurements to determine whether or not they were excluded from the UA.

The 1990 extended city criteria complemented the previous UA criteria whose focus was to include whole places wherever possible, except for those incorporated places that were very overbounded and very large. The use of different density thresholds within incorporated place territory (100 ppsm rather than 1,000 ppsm outside of places) again was biased based on state laws of incorporation and annexation. The new urban criteria, based solely on the population density of census BGs and census blocks, will provide a continuum of urban areas.

D. The proposed criteria increase the permitted jump distance from 1.5 to 2.5 miles. Jumps between qualifying areas that are less than or equal to 0.5 miles are hops, not jumps. In addition, noncontiguous areas with a population of 1,000 or more qualify for inclusion regardless of the overall combined density of the qualifying and connecting areas.

The increase in the permitted jump distance is proposed as a means to recognize improvements in the transportation network, and the associated changes in development patterns that reflect these improvements, coupled with governmental influence to provide additional ''green space'' between developments.

The Census Bureau developed the use of hops to extend the urban definition across small nonqualifying census blocks, thereby avoiding the need to designate the break in qualifying blocks as a jump. Most of these hop blocks are developed for nonresidential uses, such as schools, shopping centers, office complexes, industrial parks, and parks or other green space.

E. An indentation in qualifying territory has to be three times longer than the distance across its mouth for its inclusion in a UA or UC. Previously, an indentation only had to be two times longer. Increasing the distance it takes for inclusion of indentations reduces the chances of sparsely settled area along the fringe of a core being classified as urban.

F. The revised uninhabitable jump criteria are more restrictive regarding the types of terrain over which an uninhabitable jump can be made than was permitted under the 1990 census UA criteria.

The new restriction on the types of territory that can be treated as uninhabitable is an attempt to remove ambiguity from the designation of undevelopable or uninhabitable territory. The 1990 census criteria permitted jumps across various types of supposedly undevelopable terrain based on information that normally is not contained within the TIGER data base. For example, floodplains, mud flats, steep slopes, and marshes were designated as undevelopable, but only where a census or local official specifically requested the designation. Because this type of terrain information usually does not exist within the TIGER data base, attempting to use such information under the current criteria is inappropriate. Therefore, the designation of uninhabitable territory is limited to those types of terrain and land use for which the TIGER data base has a complete inventory, such as bodies of water, national parks and monuments, and military installations.

G. The UA central place and title criteria will no longer follow standards predefined by other federal agencies. Previously, many UA central places and titles were based on MA central city definitions set forth by the Office of Management and Budget.

The new MA criteria will be, and always have been, applied later than the UA criteria. To avoid creating a situation in which the 2000 UA or UC central places and titles would need to follow MA central city definitions that were established in the early 1990s, these criteria create an objective zero-based approach.

VII. Effects of the Census 2000 UA Criteria on the 1990 Urban Classification

A. The aforementioned changes in urban criteria may classify as much as three percent (five million) more people as urban than the previous criteria did.

The majority of this increase will come from how urban population is defined outside of UAs. Under the former criteria, urban population outside of UAs was limited to people living in incorporated places and CDPs that had a total population of 2,500 or more. With the change to UC delineation, many densely settled unincorporated areas will be classified as urban for the first time, as well as places having a population fewer than 2,500 that adjoin densely settled territory that brings the total population of the area to 2,500 or more.

The overwhelming majority of densely settled unincorporated areas are located adjacent to incorporated places. Incorporated places in states with strict annexation laws are less likely to annex the densely settled areas that are adjacent to them. Connecticut, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania are states with strict annexation laws. These states will have a higher proportional increase in urban population than those states with liberal annexation laws, such as Alabama, Arizona, Mississippi, Oklahoma, Tennessee, and Texas, where incorporated places are more likely to annex adjacent densely settled areas.

Another element of the criteria that will cause an increase in total urban population is the inclusion into UAs of nearby areas that did not qualify under the former jump criteria. Some areas that were excluded from a 1990 UA because it took two jumps to get to them may be included in a Census 2000 UA because one of the jumps is now classified as a hop. Others may be included because of the increase in the jump distance from 1.5 to 2.5 miles.

B. The total urban area may decrease by as much as 7 percent (6,600 square miles).

The decrease in urban area is due to the removal of the whole place and extended city qualification criteria and

the requirement to retain areas that were previously within UAs (''grandfathering''). The decrease results from using a higher density requirement in places (500 ppsm rather than the 100 ppsm used for the 1990 census in extended cities) and the ability to classify CDPs as part urban and rural. States that have liberal annexation laws or overbounded places will notice the most significant decreases in total urban land area.

C. When the Census 2000 UA criteria are applied using 1990 census data, the following four 1990 census UAs fail to qualify using the proposed criteria:

1990 UA	1990 UA population	Proposed criteria population
Bristol, VA	52,563	49,687
Brunswick, GA	50,066	47,282
Dover, DE	50,787	49,355
Ithaca, NY	50,132	49,416

The removal of the whole place qualification criteria is the primary reason why these four areas may fail to qualify as UAs following Census 2000. The 1990 census whole place qualification criteria required that whole CDPs were either included or excluded from a 1990 UA, but there is no requirement under the Census 2000 criteria to include whole CDPs. The 1990 UA qualification of Brunswick, Dover, and Ithaca relied on the inclusion of whole CDPs, but large areas of these CDPs did not meet the population density requirement under the 2000 criteria. Bristol was a 1980 UA, which by virtue of ''grandfathering,'' qualified all 1980 UA territory as 1990 qualifying territory. In addition, the entire area of Bristol City was included in the UA because it failed to meet the extended city criteria. However, portions of Bristol City do not qualify under the Census 2000 criteria because of low population density.

Even though the 1990 UAs listed above fail to qualify using Census 2000 criteria and 1990 data, they do not necessarily indicate that they will not qualify as Census 2000 UAs. There may have been positive population growth since 1990 in those four areas such that the total qualifying population will rise above 50,000. As stated previously, 1990 census population data were used to determine the qualifying area for these four 1990 UAs. No other 1990 UAs failed to qualify as a result of the criteria changes.

A. Former urban places may be classified as rural under the Census 2000 UC criteria.

The UC criteria do not qualify incorporated places and CDPs that have a population of 2,500 or more as urban based solely on their total populations. Urban classification is based solely on the delineation of a qualifying UC of at least 2,500 people at a density of at least 500. Those places that do not have a qualifying UC of at least 2,500 population based primarily on density will be classified as rural. Places with a population just above 2,500 and those with low densities or dispersed cores may not qualify as urban. Conversely, incorporated places and CDPs that have a population less than 2,500 may be classified wholly or partially as urban when the population outside the place is inside part of a qualifying UC that reaches the 2,500 population threshold.

Dated: February 12, 2001.

William G. Barron,

Acting Director, Bureau of the Census.

BILLING CODE 3510–07–P

ATTACHMENTS

Figure 1

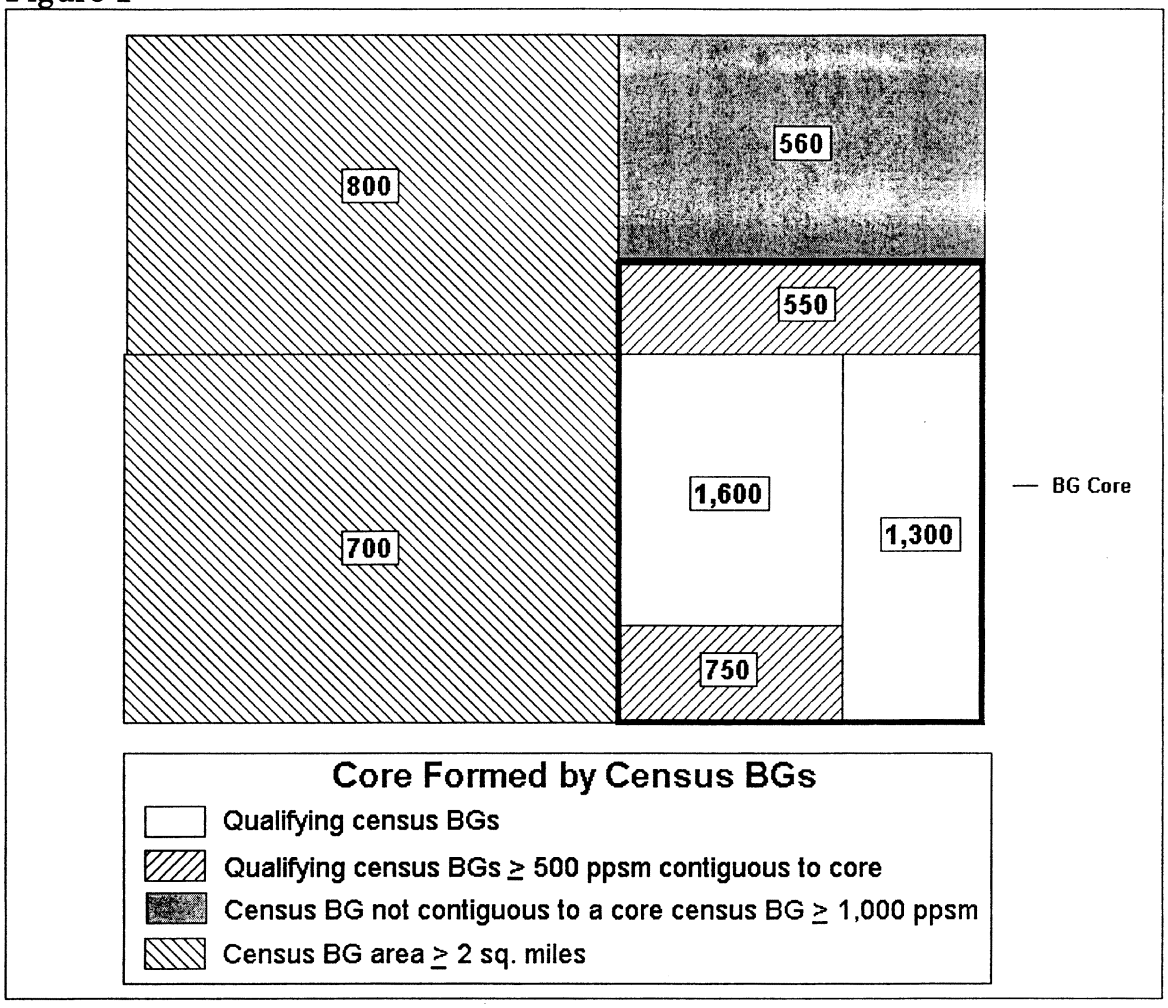

Figure 1 The hypothetical example above illustrates the initial creation of a core defined by census BGs and the accretion of adjacent BGs that meet the criteria. The blank and right slanted diagonally patterned BGs create a core. However, the gray shaded BG does not qualify because of its noncontiguity to a BG that has a density of at least 1,000 ppsm, and the left slanted diagonally patterned BGs do not qualify because they have a land area greater than 2 square miles.

Figure 2

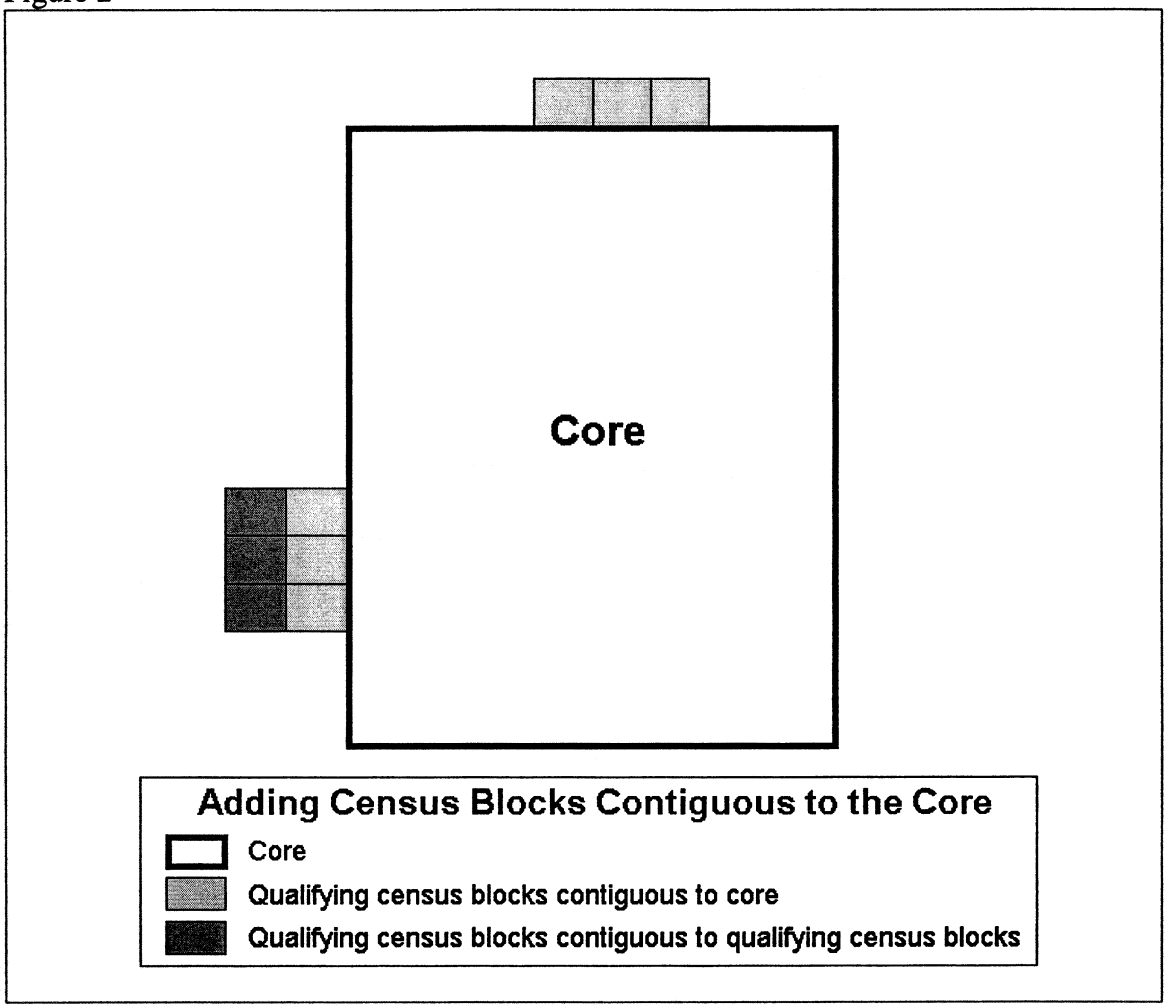

Figure 2 The dark gray shaded census blocks in the hypothetical example above, which are contiguous with the light gray shaded census blocks, which in turn are contiguous with the core, also qualify for inclusion in the core.

Figure 3

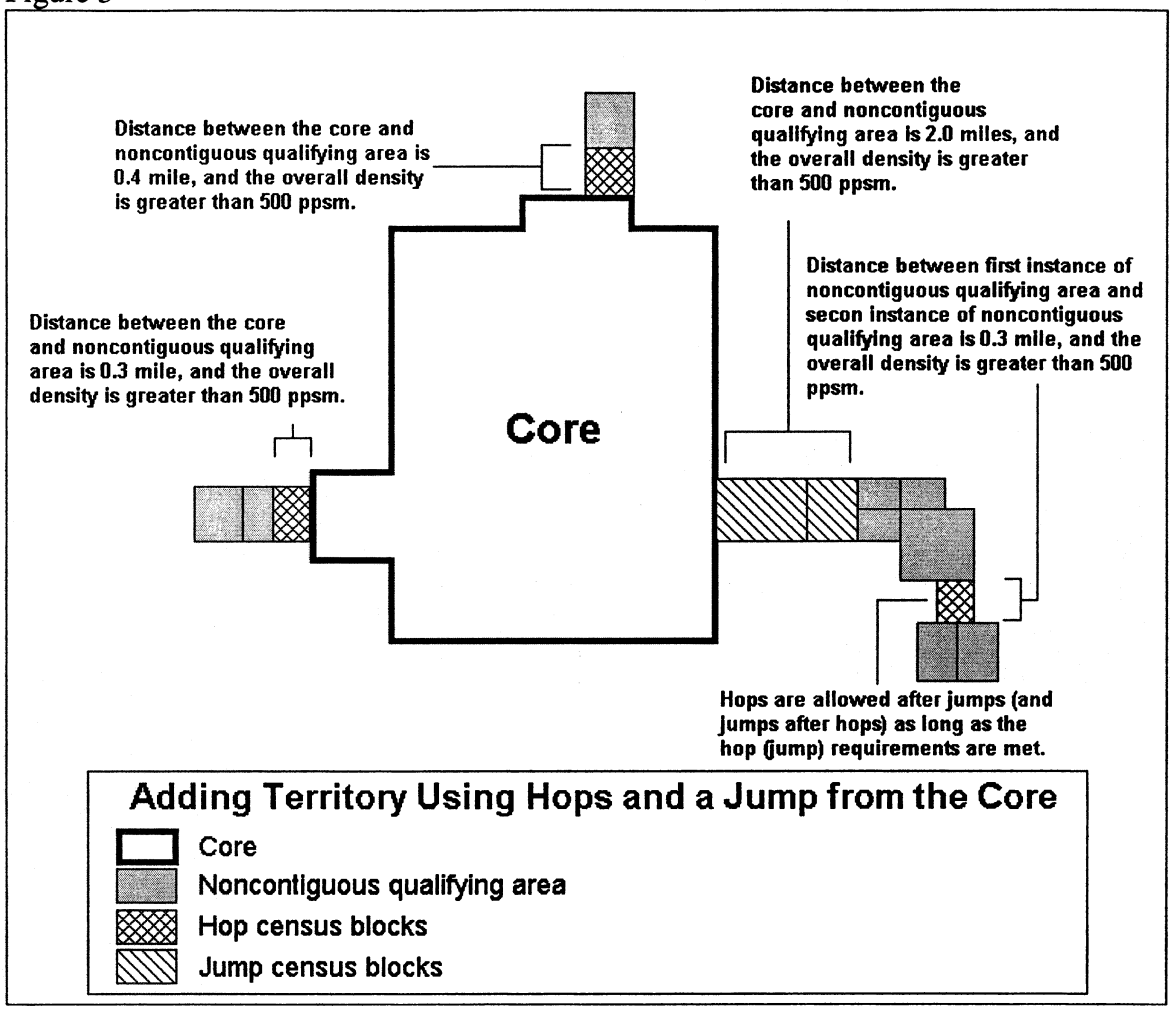

Figure 3 Additional noncontiguous qualifying area may join with the core in the hypothetical example above if the connections that join them meet the hop and jump criteria.

Figure 4

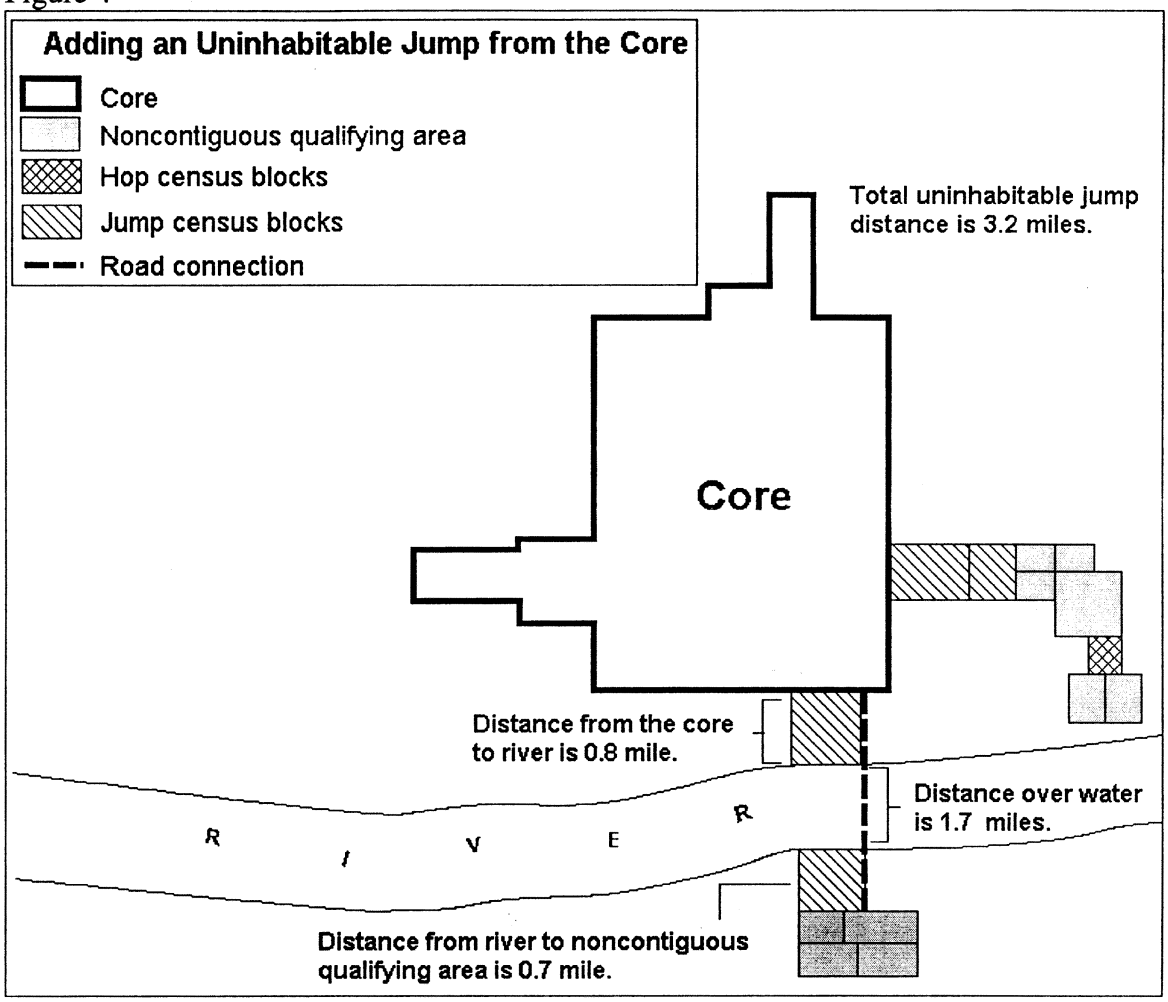

Figure 4 This hypothetical example illustrates an uninhabitable territory connection over water and land areas to connect noncontiguous qualifying area. This example is a 3.2-mile jump, which consists of a 1.7-mile uninhabitable jump over water, and a jump (in two parts) over land that totals 1.5 miles.

Figure 5

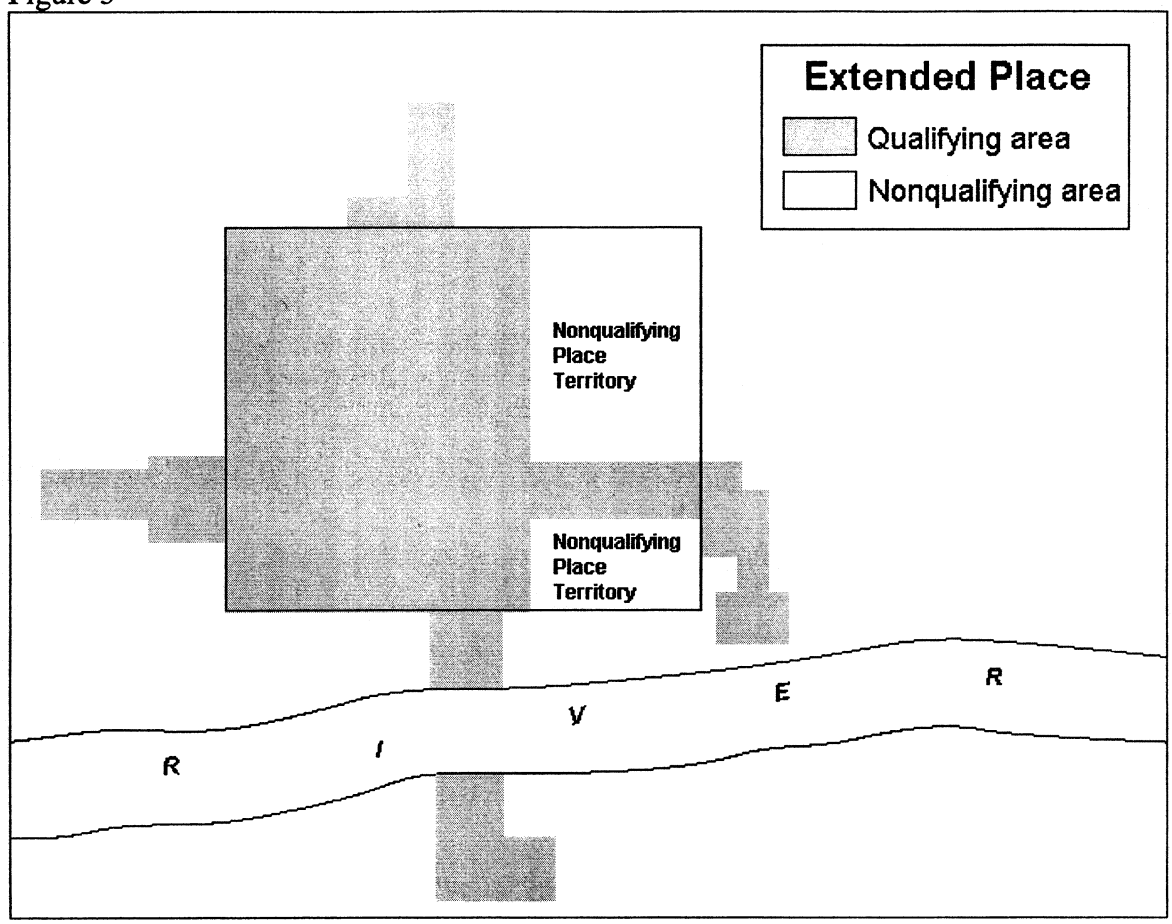

Figure 5 Unlike the 1990 census UA criteria, the U.S. Census Bureau will not use any special rules to include whole places in its delineation of Census 2000 UAs or UCs. A place will be classified as "extended" if part of its area is urban and part is rural.

Figures 6 through 11 illustrate how an urban cluster would be defined (using 1990 census geography and population data) for Ames, IA by applying the proposed criteria, and how that urban cluster differs from the urban area defined for the 1990 census.

Figure 6

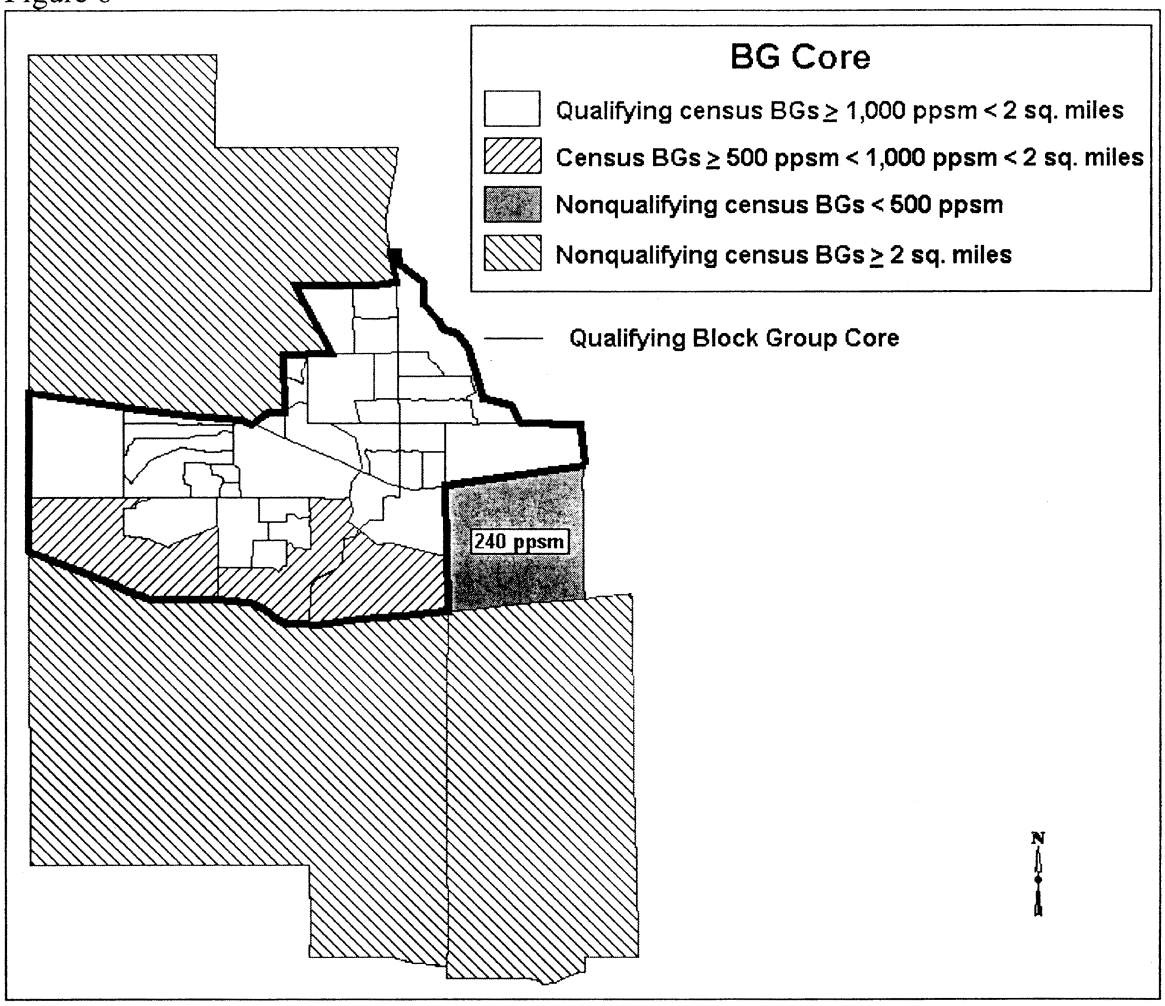

Figure 6 The blank and right slanted diagonally patterned BGs create the core for the Ames, IA UA. The left slanted diagonally patterned BGs do not qualify for inclusion because they are either greater than 2 square miles in area or less than 500 ppsm.

Figure 7

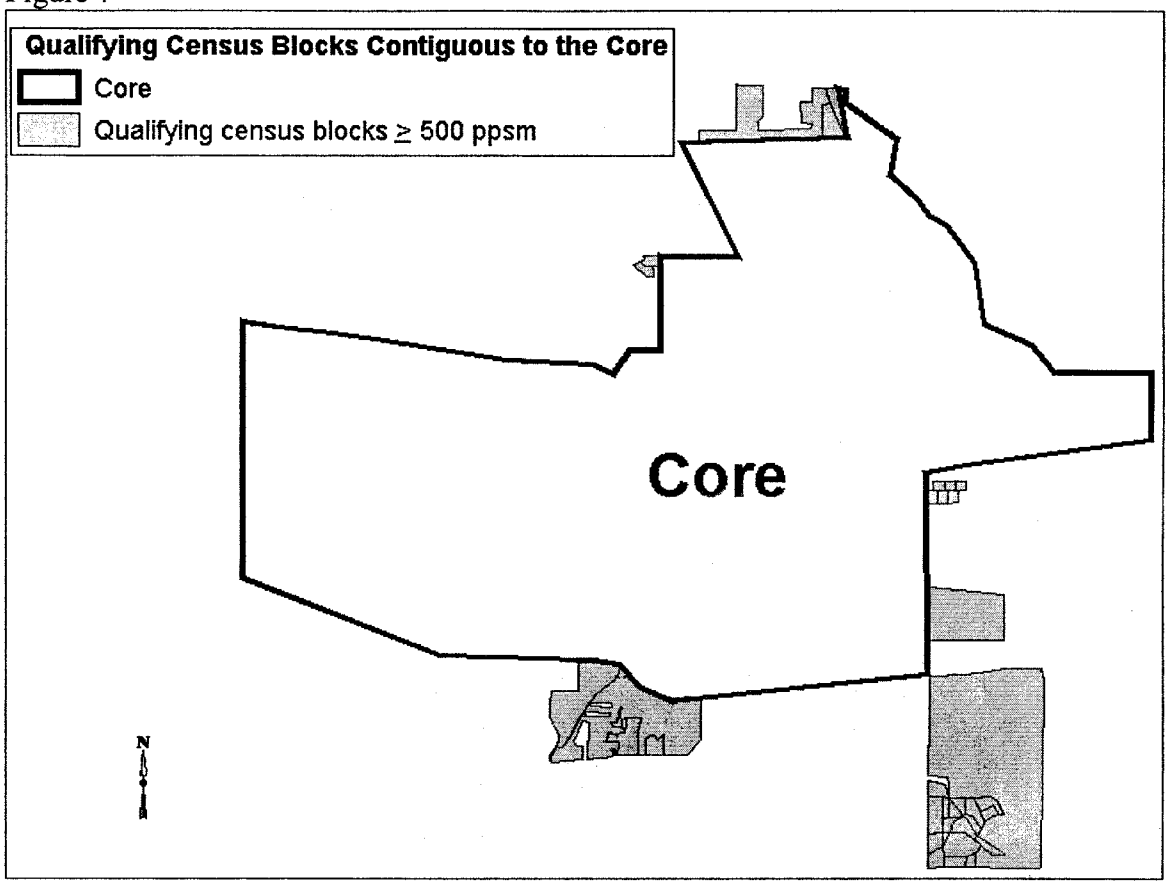

Figure 7 Most of the densely settled gray shaded census blocks from the large-area nonqualifying BG (shown in lower right corner in Figure 6) qualify for the Ames, IA UC during the block phase of UA delineation.

Figure 8

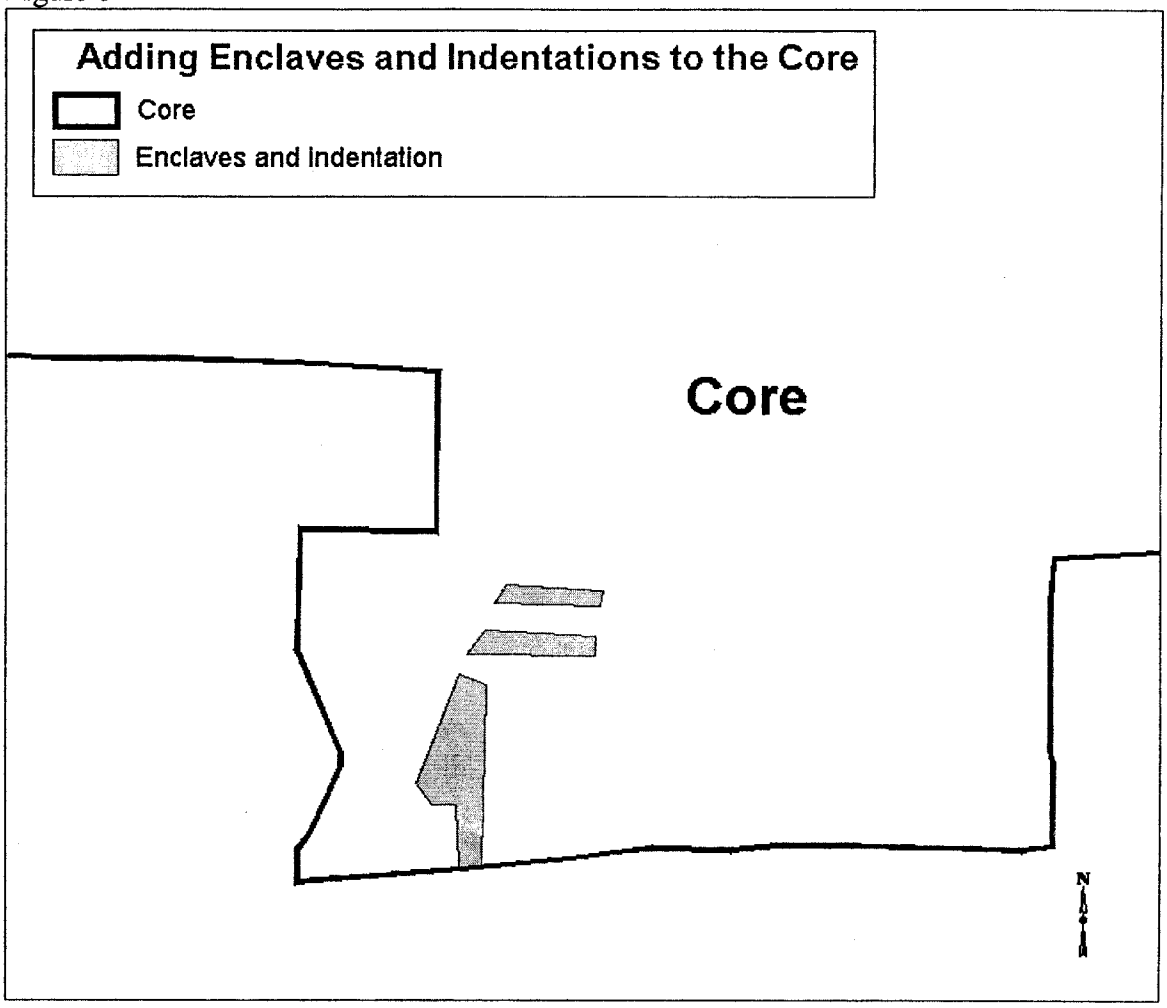

Figure 8 Small enclaves and an indentation in the Ames, IA UC are filled in after completing the delineation of the core.

Figure 9

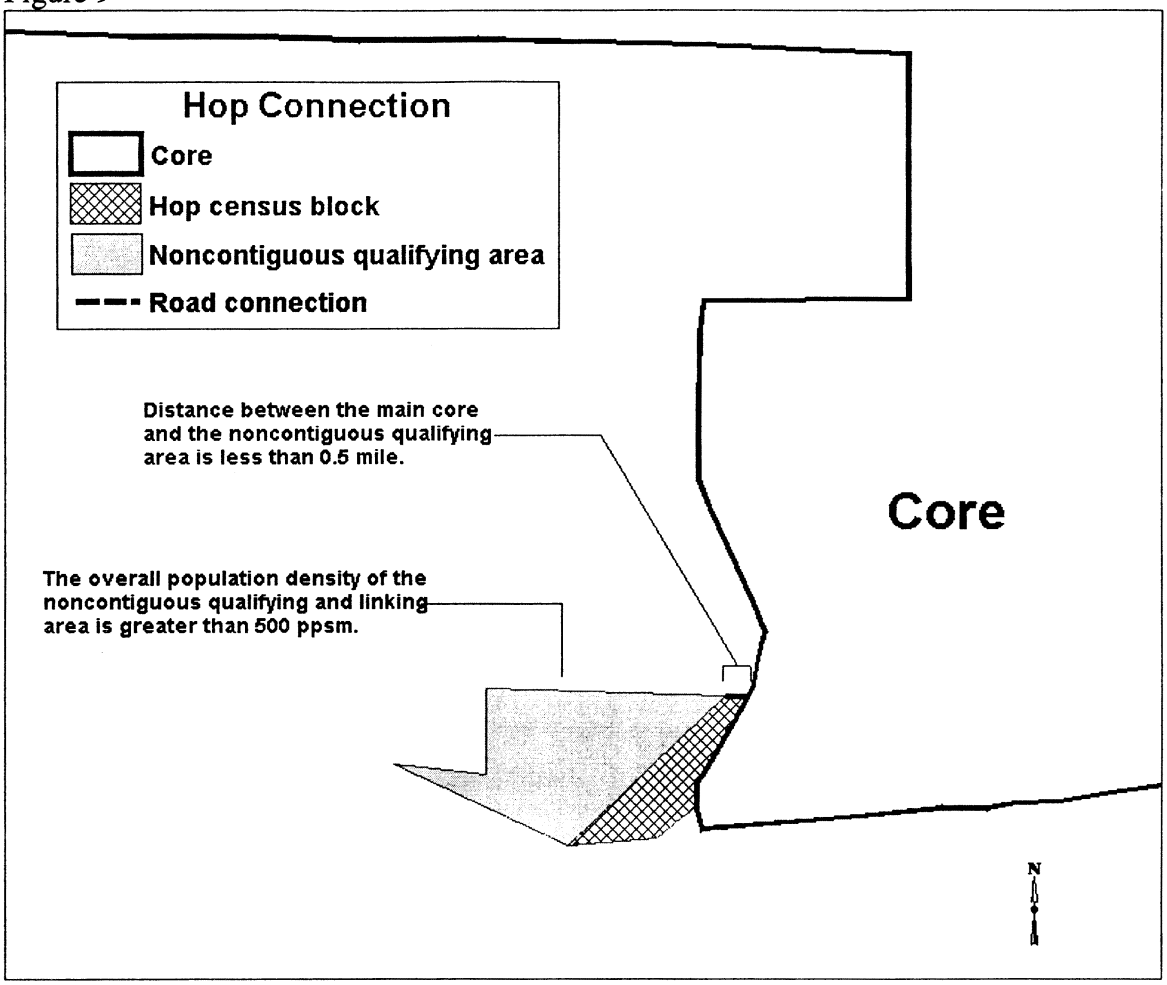

Figure 9 Only one noncontiguous area qualifies for addition to the Ames, IA UC during the hopping phase.

Figure 10

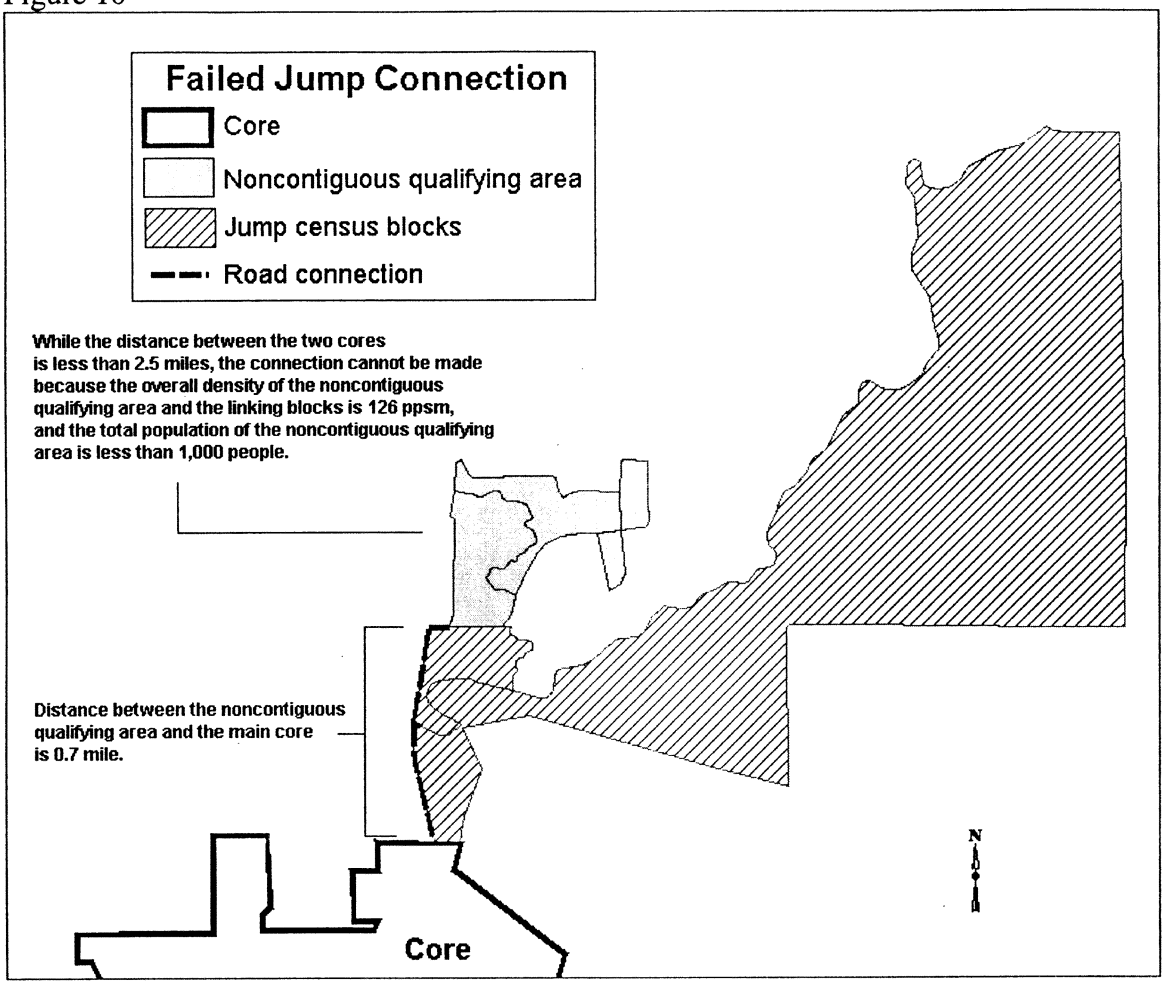

Figure 10 The distance between the core and the noncontiguous, but potentially qualifying, area is within jumping distance, but the linking census blocks are sparsely settled and the resulting overall density of the linking and noncontiguous blocks falls below the required density of 500 ppsm.

Figure 11

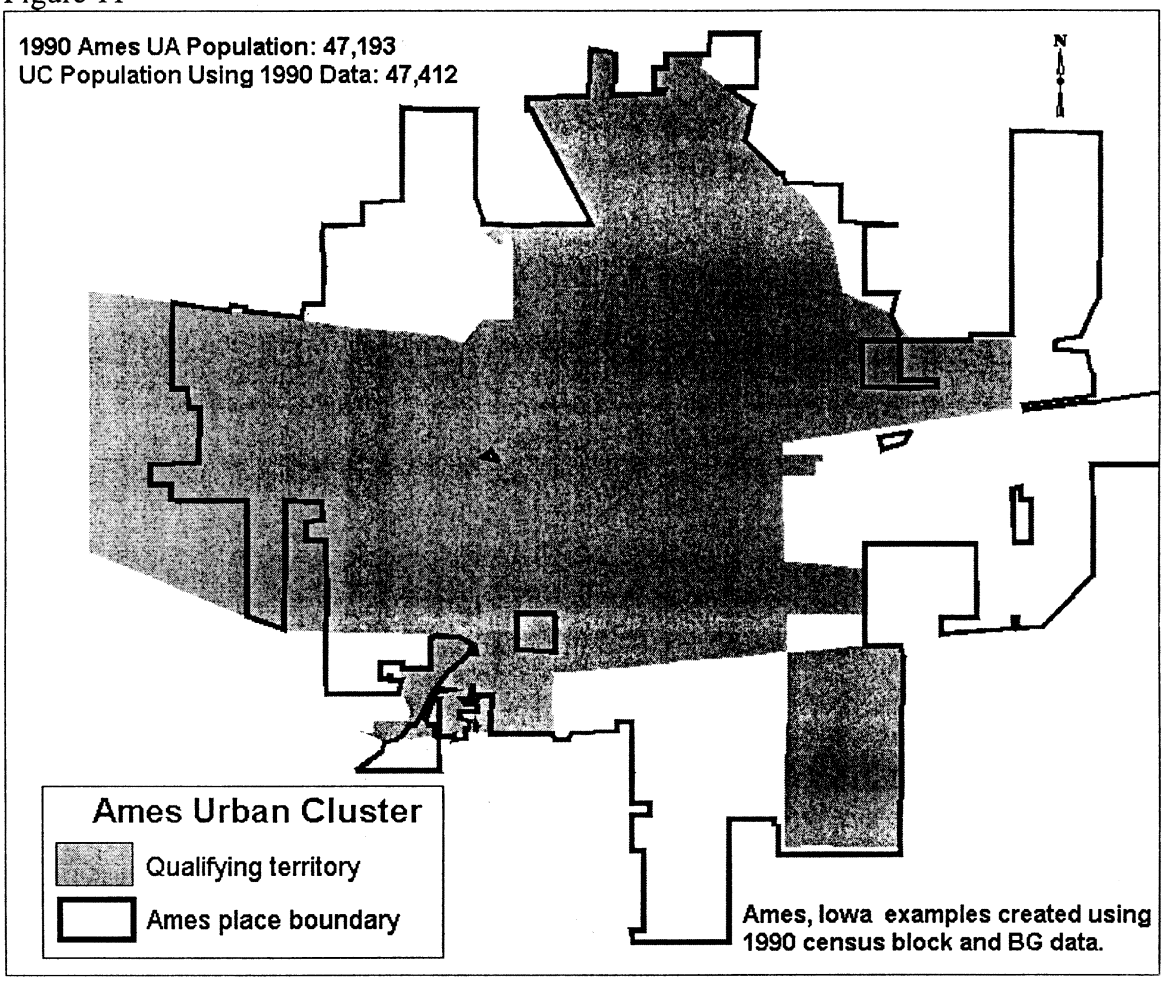

Figure 11 This example depicts the qualifying UC and the incorporated place boundary for Ames, Iowa. Ames, Iowa becomes the central place of the Ames UC.

[FR Doc. 01–7690 Filed 3–27–01; 8:45 am]
BILLING CODE 3510–07–C

Federal Register

Wednesday,
March 28, 2001

Part V

Department of Education

Office of Vocational and Adult Education; Tribally Controlled Postsecondary Vocational and Technical Institutions Program; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.245]

Office of Vocational and Adult Education; Tribally Controlled Postsecondary Vocational and Technical Institutions Program

ACTION: Withdrawal of Notice Published on March 23, 2001 and Publication of New Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001.

Notice to Applicants: On March 23, 2001, the Secretary published in the **Federal Register** (66 FR 16195) a notice inviting applications for new awards for FY 2001 in the Tribally Controlled Postsecondary Vocational and Technical Institutions Program. This notice withdraws and replaces the notice published on March 23, 2001 at 66 FR 16195, because the wrong version was erroneously published on March 23rd. This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

SUMMARY: The Secretary invites applications for new awards for FY 2001 under the Tribally Controlled Postsecondary Vocational and Technical Institutions Program (TCPVTIP or the program) authority of section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (the Act or the 1998 amendments) (20 U.S.C. 2327) and announces deadline dates for the transmittal of applications for funding under the program.

Purpose of Program: Section 117 of the Act authorizes the Secretary to make grants to tribally controlled postsecondary vocational and technical institutions to provide basic support for the education and training of Indian students in vocational and technical education programs.

Eligible Applicants: A tribally controlled postsecondary vocational and technical institution is eligible to receive a grant under this program if it is an institution of higher education (as defined section 101 of the Higher Education Act of 1965 and in the ''DEFINITIONS'' section of this notice) that—

(a) Is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or tribes;

(b) Offers a technical degree or certificate granting program;

(c) Is governed by a board of directors or trustees, a majority of whom are Indians;

(d) Demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(e) Has been in operation for at least 3 years;

(f) Holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational and technical education; and

(g) Enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians.

Deadline for Transmittal of Applications: May 29, 2001.

Available Funds: $5,600,000 for the first 12 months of the 36-month project period. Funding for the second and third 12-month periods of the project is subject to the availability of funds and to a grantee meeting the requirements of 34 CFR 75.253.

Estimated Range of Awards: $500,000 to $1,250,000 for the first 12 months.

Estimated Average Size of Awards: $700,000.

Estimated Number of Awards: 8.

Note: The Department is not bound by any estimates in this notice.

Project Period: 3 years.

Applicable Statute and Regulations: (a) The relevant provisions of the Carl D. Perkins Vocational and Technical Education Act of 1998, 20 U.S.C. 2301 *et seq.*, in particular sections 117(a)–(f) and (h) of the Act, 20 U.S.C. 2327(a)–(f) and (h).

(b) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants and Agreements to Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

(8) 34 CFR part 97 (Protection of Human Subjects).

(9) 34 CFR part 98 (Student Rights In Research, Experimental Programs and Testing).

(10) 34 CFR part 99 (Family Educational Rights and Privacy).

SUPPLEMENTARY INFORMATION:

General

This notice implements section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Pub. L. 105–332), enacted October 31, 1998. Section 117 authorizes the Secretary to award grants to tribally controlled postsecondary vocational and technical institutions to operate vocational and technical education programs.

The 1998 amendments to the Perkins Act changed many of the requirements applicable to the TCPVTIP. Former grant recipients under the Tribally Controlled Postsecondary Vocational Institutions Program will find that the changes brought about by the 1998 amendments are likely to have a noticeable impact on how tribal postsecondary institutions must now operate projects.

The following summary is intended to help potential applicants to become familiar with important changes to the TCPVTIP and with the way in which these changes impact on the administration of the TCPVTIP.

Changes to the Program

(a) *Eligibility.* Under the definition of ''tribally controlled postsecondary vocational and technical institution'' in section 3(28) of the Act, institutions of higher education meeting the eligibility requirements in section 3(28)(A)–(G) of the Act are eligible to apply for and receive awards under the TCPVTIP. Prior to the 1998 amendments, tribally controlled community colleges generally were not considered eligible under this program. See 57 F.R. 36773–74 (August 14, 1992) (Section 410.5, definition of ''Tribally controlled postsecondary vocational institution''.) Under this notice, funding opportunities are provided for additional tribal institutions to strengthen their vocational and technical education programs.

(b) *Allowable expenses.* (1) Unlike part H of the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (20 U.S.C. 2301 *et seq.*), section 117 of the Act does not provide for grants for the operation, maintenance, expansion, or improvement of tribally controlled postsecondary vocational institutions. Instead, under section 117 of the Act, grants are to be used to fund projects that provide basic support for

vocational and technical education programs for Indian students. (20 U.S.C. 2327(a), (b), and (e)). Costs that are not specifically authorized by section 117 of the Act or clearly associated with vocational and technical programs for Indians, such as the administrative expenses of the entire institution, will not be considered by the Secretary as allowable direct costs under this program.

(2) While section 117(e)(1)(B) of the Act continues to authorize the use of grant funds for capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, under the Act these costs are allowable only when incurred for the conduct of programs funded under section 117 of the Act. (20 U.S.C. 2327(e)(1)(B)).

(3) Section 117(e)(1)(A) of the Act specifically authorizes student stipends, whereas the previous statute did not. Institutions may provide a stipend to a student to enable the student to participate in a vocational and technical education program under section 117 of the Act. (20 U.S.C. 2327(e)(1)(A)).

(c) *Supplanting.* In accordance with section 311(a) of the Act, funds awarded under this program must supplement, and cannot supplant, non-Federal funds used to carry out vocational and technical education activities and tech-prep activities. (20 U.S.C. 2391). Under the Department's administrative regulations, because of this new statutory prohibition against supplanting in the TCPVTIP, grantees will also be required to apply their negotiated restricted indirect cost rates to this program. (*See* 34 CFR 75.563). There was no supplanting provision applicable to this program prior to the 1998 amendments.

Definitions

Indian means a person who is a member of an Indian tribe.

Indian student count means a number equal to the total number of Indian students enrolled in a tribally controlled postsecondary vocational and technical institution determined by adding the figures for paragraphs (a) through (d) of this definition:

(a) *Full-time students.* The number of Indian students registered at the institution on October 1 of each year, who carried a full-time academic workload, as determined by the institution. This figure does not include summer school registrants, continuing education registrants, or part-time students.

(b) *Part-time students.* The full time equivalent of the number of Indian students registered at the institution on October 1 of each year who carried a part-time academic workload, as determined by the institution. This figure does not include summer school or continuing education registrants.

(c) *Summer students.* The full-time equivalent of the total number of credit or clock hours earned toward a certificate or degree at the institution by Indian students during the summer term. Credit or clock hours toward a certificate or degree earned in classes during a summer term are counted only if the tribally controlled postsecondary vocational and technical institution has established criteria for the admission of summer term students on the basis of the students' ability to benefit from the education or training offered. The institution shall be presumed to have established those criteria if the admission procedures for those studies include counseling or testing that measures the students' aptitude to successfully complete the courses in which the students have enrolled.

(d) *Continuing education students.* The full-time equivalent of the total number of credit or clock hours earned by Indian students enrolled in the institution's continuing education program. (20 U.S.C. 2327(h)(2)).

Under section 117(h)(2)(C) of the Act, the Indian student count does not include either credit earned by students for purposes of obtaining a high school degree or its equivalent, or the number of students registered in programs that provide a high school degree or its equivalent. (20 U.S.C. 2327(h)(2)(C)).

If grantees use inconsistent methods for converting credit and clock hours to a full-time equivalent, in order to arrive at a consistent calculation of the full-time equivalent for students in summer and continuing education programs using the semester, trimester, or quarter system, the Secretary will divide the number of credit hours by 12 and the number of clock hours by 24.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (20 U.S.C. 2327(h)(1); 25 U.S.C. 1801(a)(2)).

Institution of higher education, as defined in section 3(28) of the Act and in section 101 of the Higher Education Act of 1965, means—

(a) An educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(3) Is a public or other nonprofit institution; and

(4) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary of the Interior for the granting of preaccreditation status, and the Secretary of the Interior has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) The term also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (a)(1), (3), and (4) of this definition.

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in paragraph (a)(1) of this definition, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(Authority: 20 U.S.C. 1001 and 2302(28))

Stipend means a subsistence allowance for a student that is necessary for the student to participate in a project funded under this program.

Tribally Controlled Community College or University means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe.

(Authority: 20 U.S.C. 2302(27) and 25 U.S.C. 1801(a)(4))

Tribally Controlled Postsecondary Vocational and Technical Institution means an institution of higher education (as defined in the ''Definitions'' section of this notice) that—

(a) Is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or tribes;

(b) Offers a technical degree or certificate granting program;

(c) Is governed by a board of directors or trustees, a majority of whom is Indians;

(d) Demonstrates adherence to stated goals, a philosophy, or a plan of operation that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(e) Has been in operation for at least 3 years;

(f) Holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational and technical education; and

(g) Enrolls the full-time equivalent of not less than 100 students, of whom a majority is Indians.

(Authority: 20 U.S.C. 2302(28))

Vocational and technical education means organized educational activities that—

(1) Offer a sequence of courses that provides an individual with the academic and technical knowledge and skills the individual needs to prepare for further education and careers (other than careers requiring a baccalaureate, master's, or doctoral degree) in current or emerging employment sectors; and

(2) Include competency-based applied learning that contributes to an individual's academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupational-specific skills.

For the purposes of this definition, the term ''sequence of courses'' means a series of courses in which vocational and academic education are integrated, and which directly relates to, and leads to, both academic and occupational competencies.

(Authority: 20 U.S.C. 2301(2) and 2302 (29))

Note: Applicants are encouraged to review all applicable definitions in section 3 of the Act.

Eligible Programs, Services, and Activities

Under the TCPVTIP, projects may use grant funds to pay for the following—

(a) *Authorized expenses.* The Secretary awards grants to carry out projects that provide vocational and technical education programs to Indian students. Grants may be used to pay for expenses associated with—

(1) The maintenance and operation of the vocational and technical education program funded under section 117 of the Act, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents) and student stipends;

(2) Capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of vocational and technical education programs funded under section 117 of the Act; and

(3) Cost associated with the repair, upkeep, replacement, and upgrading of instructional equipment used in vocational and technical education programs funded under the grant. (20 U.S.C. 2327(e)(1)).

(b) *Student stipends.* (1) A tribally controlled postsecondary vocational and technical institution may provide a stipend to a student to enable the student to participate in a vocational and technical education program under section 117 of the Act.

(2) In order to receive a stipend, the student must—

(i) Be enrolled in a vocational and technical education project funded under this program as at least a half-time student;

(ii) Be in regular attendance in a TCPVTIP project and meet the tribally controlled postsecondary institution's attendance requirement;

(iii) Maintain satisfactory progress in his or her course of study according to the tribally controlled postsecondary institution's published standards of satisfactory progress; and

(iv) Have an acute economic need that—

(A) Prevents participation in a project funded under this program; and

(B) Cannot be met through a work-study program.

(3) Acute economic need means an income, of the family of a dependent student or of an independent student, that is at or below the national poverty level according to the latest available data from the Department of Commerce or the Department of Health and Human Services Poverty Guidelines.

(4) The amount of a stipend may be the greater of either the minimum hourly wage prescribed by State or local law, or the minimum hourly wage established under the Fair Labor Standards Act.

(5) An institution may only award a stipend if the stipend combined with other resources the student receives does not exceed the student's financial need. The student's financial need is the difference between the student's cost of attendance and the financial aid or other resources that will be used to defray the costs of the student participating in the TCPVTIP.

(6) To calculate the amount of a student's stipend, a grantee would multiply the number of hours a student actually attends vocational and technical education instruction by the amount of the minimum hourly wage that is prescribed by State or local law, or by the minimum hourly wage that is established under the Fair Labor Standards Act.

Example: If a grantee uses the Fair Labor Standards Act minimum hourly wage of $6.15 and a student attends classes for 18 hours a week, the student's stipend would be $110.70 for the week during which the student attends classes ($6.15 × 18 = 110.70).

Attendance Costs Under This Program May Not Be Considered as Income

(a) The portion of any student financial assistance received under the Act that is made available for attendance costs described in paragraph (b) of this section of the notice may not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

(b) For purposes of this section, attendance costs are—

(1) Tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, including costs for rental or purchases of any equipment, materials, or supplies required of all students in the same course of study; and

(2) An allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending an institution on at least a half-time basis, as determined by the institution.

(Authority: 20 U.S.C. 2415)

Eligibility for Assistance Under This Program May Not Preclude Assistance Under Other Programs

Except as specifically provided for in the Act, eligibility for assistance under this program shall not preclude any tribally controlled postsecondary vocational and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965, or any other applicable program for the benefit of institutions of

higher education or vocational and technical education.

(Authority: 20 U.S.C. 2327(f)(1))

Content of The Application

To receive a grant under the TCPVTIP, an applicant must include the following information in the application:

(a) Documentation showing that the institution is eligible according to each of the requirements in the ''Eligible Applicants'' section of this notice, including meeting the definition of the term ''institution of higher education'' (e.g., proof of the accreditation of the institution, resolution from an Indian tribe).

(b) For each of the past three academic years—

(i) A list of the vocational and technical education certificate and degree programs that were offered by the institution (e.g., Nursing, Automotive Technology); and

(ii) For the vocational and technical education program(s), the total number of students that enrolled, dropped out, graduated, and were placed in additional training or education, military service, or employment after graduation.

(c) The institution's Indian student counts, as defined in this notice, for academic years 1998–1999 and 1999–2000.

(d) The courses of study to be supported under the TCPVTIP project.

(e) The number of students to be served in the proposed project in each course of study.

(f) Goals and objectives for the proposed project, including how the goals and objectives further the tribal economic develop plan.

(g) Long-range and short-range needs to be addressed by the project, including the institution's plans for the placement of students (e.g., placement into additional training or education, military service, or employment).

(h) A detailed budget identifying the costs to be paid with a grant under this program and resources available from other Federal, State, and local sources, including any student financial aid, that will be used to achieve the goals and objectives of the proposed project.

(i) Strategies and resources for objectively evaluating the institution's progress towards, and success in, achieving the goals and objectives of the project. (20 U.S.C. 2302(28); 2327(a), (c), (d), (e), (g)(1), and (h)(2))

Competitive Priorities

Under the authority of 34 CFR 75.105(c)(2)(ii), the Secretary gives preference to applications that meet the following competitive priorities. The Secretary awards up to five points to applicants that meet the competitive priority in a particularly effective way. These priority points are in addition to any points an applicant earns under the selection criteria for the program.

Competitive Priority 1—High interest/high demand areas (up to 5 points)

Projects that propose to introduce, expand, or refine ''high interest/high demand'' vocational and technical education programs in the applicant institution. The need for ''high interest/high demand'' programs should be based on the institution reviewing such evidence as changing trends in an occupation, documented labor market needs, or evidence of emerging jobs in the career or occupational area (e.g., occupational forecast data, survey data from interested persons and business owners in the local area).

Competitive Priority 2—Professional development (up to 5 points)

Projects that propose on-going professional development activities (e.g., internships, teacher externships, business/education collboratives, use of technology to facilitate training activities) intended to enhance the teaching or occupational skills and competencies of the applicant's staff who serve vocational and technical education students. The training should be designed to help the staff to better meet the vocational and technical educational goals and objectives of the proposed project. To the extent possible, professional development activities should be related to training students for emerging occupations relevant to the needs of the community.

Competitive Priority 3—Student recruitment, retention, and course completion. (up to 5 points)

Projects that propose, as a part of their TCPVTIP projects' vocational and technical education program, to use effective techniques for increasing student recruitment, enrollment, retention, and completion. The effectiveness of the techniques must be supported by empirical data.

Selection Criteria

The Secretary uses the following criteria to evaluate an application. The maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (15 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the specific services to be provided or specific activities to be carried out by the proposed project, as evidenced by data such as local labor market demand, occupational trends, advice from an advisory board for a course of study, surveys, recommendations from accrediting agencies, or tribal economic development plans.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Significance.* (10 points) (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The likelihood that the proposed project will result in system change or improvement in the applicant's educational program.

(ii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the vocational and technical education needs of the target population.

(iii) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies for providing vocational and technical education to Native Americans.

(iv) The extent to which the results of the proposed project are to be disseminated in ways that will enable vocational and technical education practitioners to use the information or strategies developed by the proposed project.

(c) *Quality of the project design.* (25 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which goals, objectives, and outcomes are clearly specified and measurable (e.g., student vocational and technical education activities; expected enrollments, completions, and student placements in jobs, military specialties, and continuing education/training opportunities in each vocational training area; the number of teachers, counselors, and administrators to be trained; identification of requirements for each course of study; description of

performance outcomes; and description of the planned dissemination activities).

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed activities constitute a coherent, sustained program of training in the field and the courses of study are accredited.

(iv) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(d) *Quality of project services.* (25 points) (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iii) The extent to which training or professional development services to be provided by the proposed project for the staff of its vocational and technical education program are of sufficient quality, intensity, and duration to lead to improvements in practices among the applicant's staff.

(iv) The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous program-defined academic standards.

(v) The likelihood that services to be provided by the proposed project will lead to improvements in the skills necessary to gain employment or build capacity for independent living.

(e) *Quality of project personnel.* (15 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director.

(ii) The qualifications, including relevant training and experience, of key project personnel, especially the extent to which the proposed project will use instructors who are qualified to teach in the fields in which they will provide instruction.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(f) *Adequacy of resources.* (5 points) (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies and other resources, from the applicant institution.

(ii) The relevance and demonstrated commitment (e.g., articulation agreements, memoranda of understanding, letters of support, commitments to employ project participants) of the applicant, tribal entities to be served by the project, and local employers.

(iii) The extent to which the costs are reasonable in relation to the objectives, design, services, and potential significance of the proposed project.

(iv) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(v) The potential for continued support of the key project activities after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to provide such support.

(g) *Quality of the management plan.* (10 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities for carrying out each activity under the project, timelines, and the milestones and performance standards for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iv) The adequacy of mechanisms for ensuring high-quality outcomes and services from the proposed project.

(h) *Quality of project evaluation.* (20 points)

(1) The Secretary considers the quality of the evaluation to be conducted by an independent evaluator of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation proposed by the grantee are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and the Government Performance and Results Act (GPRA) objective and performance indicator discussed elsewhere in this notice, and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iv) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings. (Approved by the Office of Management and Budget under Control No. 1830–0542)

Program Requirements

To ensure the high quality of TCPVTIP projects and the achievement of the goals and purposes of section 117(a)–(f) and (h) of the Act, the Secretary establishes the following program requirements:

(a) *Evaluation.* (1) Each grantee shall budget for and conduct an ongoing evaluation of its effectiveness. The evaluation must be conducted by an independent evaluator.

(2) The evaluation must—

(i) Be appropriate for the project and be both formative and summative in nature;

(ii) Include performance measures that are clearly related to the intended

outcomes of the project and the Government Performance and Results Act (GPRA) objective and performance indicator for the TCPVTIP, which is discussed elsewhere in this notice; and

(iii) Measure the effectiveness of the project, including a comparison between the intended and observed results, and a demonstration of a clear link between the observed results and the specific treatment given to project participants.

(3) A proposed project evaluation design must be submitted to the Department for review and approval prior to the end of the first six months of the project period.

(4) As required in paragraph (b)(2) of the ''Program Requirements'' section of this notice, the interim and final results of this evaluation must be submitted to the Secretary along with the annual performance report. (34 CFR 75.590)

(b) *Reporting.* Each grantee shall submit to the Secretary the following reports—

(1) An annual performance report, unless the Secretary requires more frequent reporting, summarizing significant project accomplishments and, if applicable, barriers impeding progress and steps taken to alleviate those barriers. A performance report must include, for the period covered by the report—

(i) A comparison of actual accomplishments in relation to the objectives established for the period and a description of any problems, delays, or adverse conditions that materially impair the ability of the project to accomplish its purposes, the reasons for such problems, delays or adverse conditions, and an explanation of any action or actions taken or contemplated to resolve the difficulties. Note: Grantees must request prior approval for a change in the scope or the objectives of the project or program (even if there is no associated budget revision requiring prior written approval). (34 CFR 74.25(c));

(ii) A description of any favorable developments that will permit the project to accomplish its purposes sooner, at less cost, or more effectively than projected;

(iii) The institution's Indian student counts, as defined in this notice; and

(iv) A report covering—

(A) The extent to which the project achieved its goals with respect to enrollment, completion, and placement (into additional training or education, military service, or employment) of participants for the most recently completed training cycle(s), by gender and by courses of study for which instruction was provided;

(B) The number and kind of academic, vocational and technical, and work credentials and competencies acquired and demonstrated by individuals participating in the project, especially the number of students earning certificates and degrees. Grantees should also report students' participation in programs providing training at the associate degree level that is articulated with an advanced degree option; and

(C) The number of referrals the project made to social services and related services to aid participants to benefit from the project, to prepare them for employment, or to assist them in obtaining employment.

(2) An annual evaluation report that is submitted along with the annual performance report.

(3) An annual accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require. (20 U.S.C. 2327(e)(2)).

(Approved by the Office of Management and Budget under Control Number 1830–0542)

Determination of Number and Funding Level of Grants

(a) The number of grants made and the amount of each grant is determined under the provisions of 34 CFR 75.230–75.234 and section 117(e) of the Act. The formula in section 117(c) of the Act does not apply to the first year of funding under this competition.

(b) For fiscal years subsequent to the first year of funding under this competition—

(i) The Secretary will determine the number of grants and the amount of each grant based on the availability of appropriations, 34 CFR 75.253, and section 117(e) of the Act; and

(ii) If appropriations for each such subsequent fiscal year are not sufficient to fund the total amount that approved grantees are eligible to receive, the Secretary will allocate grant amounts in accordance with section 117(c) of the Act.

(Authority: 20 U.S.C. 2327(c))

Government Performance and Results Act

The Government Performance and Results Act of 1993 (GPRA) places management expectations and requirements on Federal departments and agencies by creating a framework for more effective planning, budgeting, program evaluation, and fiscal accountability for Federal programs. The intent of GPRA is to improve public confidence by holding departments and agencies accountable for achieving program results. Under GPRA, departments and agencies must clearly describe the goals and objectives of their programs, identify resources and actions needed to accomplish these goals and objectives, develop a means of measuring progress made, and regularly report on their achievement. One important source of program information on successes and ''lessons learned'' is the project evaluation conducted under individual grants. In accordance with GPRA requirements, TCPVTIP grantees are asked to include the following objective and performance indicator when evaluating the success of their projects:

The extent to which vocational students served in tribally controlled postsecondary vocational and technical institutions make successful transitions to work or continuing education. The Department's performance indicator for this objective is that by fall 2002, 60% of vocational students will receive an AA degree or certificate.

(Approved by the Office of Management and Budget under Control Number 1830–0542)

Waiver of Rulemaking

While it is generally the practice of the Secretary to offer interested parties the opportunity to comment on a regulation before it is implemented, section 437(d)(1) of the General Education Provisions Act exempts from formal rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). The program authority for what was formerly known as the Tribally Controlled Postsecondary Vocational Institutions Program was substantially revised on October 31, 1998 by section 117 of Pub. L. 105–332. In order to make awards on a timely basis, the Secretary has decided to publish this notice in final form under the authority of section 437(d)(1).

Instructions for Transmittal of Applications

Applicants are required to submit one original signed application and two copies of the application. All forms and assurances must have ink signatures. Please mark applications as ''original'' or ''copy''. To aid with the review of applications, the Department encourages applicants to submit four additional paper copies of the application. The Department will not penalize applicants who do not provide additional copies.

(a) If an applicant wants to apply for a grant under this competition, the applicant must either—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.245), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.245), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (ED Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

All forms and instructions are included in Appendix A to this notice. Questions and answers pertaining to this program are included, as Appendix B, to assist potential applicants.

To apply for an award under this program competition, your application must be organized in the following order, include the following five parts, and contain the information in the ''Content of the Application'' section of this notice. The parts and additional materials are as follows:

(1) Application for Federal Education Assistance (ED Form 424 (Rev. 11–12–99)) and instructions.

(2) Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

(3) Budget Narrative.

(4) Program Narrative.

(5) Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014, 9/90) and instructions.

Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

d. Disclosure of Lobbying Activities (Standard Form LLL), if applicable, and instructions.

e. Notice to All Applicants.

No grant or cooperative agreement may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Paul Geib, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4528, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 205–9962. Internet address: paul_geib@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed at the beginning of this paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader which is available free at either of the preceding sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 2327(a)–(f) and (h).

Dated: March 23, 2001.

Dennis L. Berry,

Acting Deputy Assistant Secretary, Office of Vocational and Adult Education.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1830–0542. Expiration date: September 30, 2003. The time required to complete this information collection is estimated to average 208 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

If you have any comments concerning the accuracy of the time estimates or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this information collection, write directly to: Paul Geib, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 4512, Mary E. Switzer Building, Washington, DC 20202–7242.

BILLING CODE 4000–01–P

Appendix A

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved OMB No. 1875-0106 Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
City State County ZIP Code + 4
Organizational Unit

2. Applicant's D-U-N-S Number

3. Applicant's T-I-N

4. Catalog of Federal Domestic Assistance #: 8 4 ➡ Title:

5. Project Director:
Address:
City State ZIP Code + 4
Tel. #: ( ) Fax #: ( )
E-Mail Address:

6. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

7. Type of Applicant *(Enter appropriate letter in the box.)*

A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School District
I Public College or University
J Private, Non-Profit College or University
K Indian Tribe
L Individual
M Private, Profit-Making Organization
N Other *(Specify):*

8. Novice Applicant ☐ Yes ☐ No

Application Information

9. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ____/____/_____
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates:

Start Date:	End Date:
____/____/_____	____/____/_____

12. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #:
OR
b. Assurance of Compliance #:
c. IRB approval date: _____
☐ Full IRB or ☐ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) Fax #: ( )

d. E-Mail Address:

e. Signature of Authorized Representative Date: ___/___/_____

REV. 11/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" **or** "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a , **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

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2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

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4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

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11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

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17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

BILLING CODE 4000–01–C

Part II—Budget Information

Instructions for Part II—Budget Information

Sections A and B—Budget Summary by Categories

1. *Personnel:* Show salaries to be paid to personnel for each budget year.

2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits for each budget year.

3. *Travel:* Indicate the amount requested both local and out of State travel of Program Staff for each budget year. Include funds for the 1st and 2nd year for two people to attend the Program Director's Workshop.

4. *Equipment:* Indicate the cost of non-expendable personal property that has a cost of $5,000 or more per unit for each budget year.

5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project period for each budget year.

6. *Contractual:* Show the amount to be used for: (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) subcontracts for each budget year.

7. *Construction:* Not applicable.

8. *Other:* Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants and capital expenditures for each budget year.

9. *Total Direct Cost:* Show the total for Lines 1 through 8 for each budget year.

10. *Indirect Costs:* Indicate the rate and amount of indirect costs for each budget year.

11. *Training/Stipend Cost:* Indicate cost per student and number of hours of instruction. The amount of a stipend may be the greater of the minimum hourly wage prescribed by State and local law, or the minimum hourly wage set under the Fair Labor Standards Act.

12. *Total Costs:* Show total for lines 9 through 11 for each budget year.

Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, why, and how, of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is based on the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and EDGAR rules governing the program; eligibility requirements; ''Content of Application'' section of this notice; ''Eligible Programs, Services and Activities'' section of this notice; priorities; selection criteria; and program requirements for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your project. Then describe the project in detail, addressing each selection criterion in order. Be sure to number consecutively ALL pages in your application.

The Secretary strongly suggests that you limit the program narrative to no more than 30 doubled-spaced, typed pages (on one side only), although the Secretary will consider your application if it is longer. Be sure to number consecutively ALL pages in your application.

You may include supporting documentation as appendices to the program narrative. Be sure that this material is concise and pertinent to this program competition.

You are advised that—

(a) The Secretary considers only information contained in the application in ranking applications for funding consideration.

(b) The technical review panel evaluates each application solely on the basis of the eligible programs, services, and activities; selection criteria; and competitive priorities contained in this notice.

(c) Letters of support included as appendices to an application, that are of direct relevance to or contain commitments that pertain to the established selection criteria, such as commitment of resources, will be reviewed by the panel. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants, the Department has assembled the following most commonly asked questions followed by the Department's answers.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and must apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Applicants are required to submit one original and two copies of the grant application. To aid with the review of applications, the Department encourages applicants to submit four additional copies of the grant application. The Department will not penalize applicants who do not provide additional copies. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any such questions with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand, however, that prior contact with the Department is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months depending on the number of the applications received and the number of Department competitions with similar closing dates.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have a legitimate reason for needing to know the outcome of the panel review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the results of the panel review with anyone.

Q. Will my application be returned if I am not funded?

A. No. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications reviewed and other relevant factors, determines the applications that can be funded.

Q. What happens during pre-award clarification discussions?

A. During pre-award clarification discussions, technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as ''conditions.'' These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because an application contains inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all issues under discussion have been resolved.

Q. Where can copies of the **Federal Register**, *Education Department General Administrative Regulations (EDGAR), and Federal statutes be obtained?*

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 708–8228. When requesting copies of regulations or statutes, it is helpful to use the specific name of the public law, number of a statute, or part number of a regulation. The material referenced in this notice should be referred to as follows:

(1) The Carl D. Perkins Vocational and Technical Education Act of 1998, Public Law 105–332, 20 U.S.C. 2301.

(2) Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 81, 82, 85, 86, 97, 98, and 99.

Copies of these materials may also be found on the World Wide Web at *http://www.access.gpo.gov/nara.*

[FR Doc. 01–7691 Filed 3–27–01; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Wednesday,
March 28, 2001

Part VI

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Program Announcement for the Longitudinal Study of Tribal Youth Risk and Resiliency; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1311]

Program Announcement for the Longitudinal Study of Tribal Youth Risk and Resiliency

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is requesting applications for the Longitudinal Study of Tribal Youth Risk and Resiliency. This solicitation is for a 2-year feasibility study that will precede implementation of a longitudinal study of tribal youth development and delinquency. The longitudinal study will examine risk and protective factors within the cultural and historical context of tribal youth. The longitudinal study will provide a unique database for examining the development of delinquency and problem behavior among tribal youth, and findings will highlight the influence of cultural and historical factors on risk for delinquency.

DATES: Applications must be received by June 11, 2001.

ADDRESSES: All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *OJJDP Application Kit* from the Juvenile Justice Clearinghouse at 800–638–8736. The *Application Kit* is also available at OJJDP's Web site at www.ojjdp.ncjrs.org/grants/2000__app__kit/index.html. (See ''Format'' in this program announcement for instructions on application standards.)

FOR FURTHER INFORMATION CONTACT: Phelan Wyrick, Program Manager, Research and Program Development Division, Office of Juvenile Justice and Delinquency Prevention, 202–353–9254. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of the Longitudinal Study of Tribal Youth Risk and Resiliency is to develop and ultimately implement a longitudinal study of youth development and delinquency that examines risk and protective factors within the unique cultural and historical context of tribal youth. Through special attention to cultural and historical factors, this study will greatly enhance the current understanding of individual, family, community, peer, and school factors that influence delinquency and resiliency among tribal youth. Further, this project will contribute to the development of culturally appropriate research methods with tribal populations. The first 2 years of this work will consist of a feasibility study to plan and prepare for the actual longitudinal study. Based on the outcomes of this feasibility study and the availability of funding, OJJDP anticipates supporting the subsequent longitudinal study for up to 5 additional years.

Authority

The Fiscal Year 2000 Consolidated Appropriations Act, November 17, 1999 (Pub. L. 106–113), authorized the Tribal Youth Program (TYP), providing $12.5 million to OJJDP to support and enhance tribal comprehensive delinquency prevention and control activities and juvenile justice system improvement. Ten percent of the funds appropriated for TYP is set aside to support program-related research, evaluation, and statistics. Of that total, $650,000 is being made available for the 2-year feasibility study of the Longitudinal Study of Tribal Youth Risk and Resiliency.

Background

TYP funds support the joint U.S. Department of Justice (DOJ) and U.S. Department of the Interior (DOI) Indian Country Law Enforcement Initiative. The purpose of the Initiative is to address the compelling need to improve the administration of criminal and juvenile justice among Federally recognized tribes.[1] OJJDP has been charged with sponsoring tribal juvenile justice research, evaluation, and statistics as part of this effort.

At the beginning of the 21st century, the tribal population faces myriad challenges. Roughly 30 percent of all tribal members and more than 50 percent of those on reservations live below the poverty level (U.S. Census Bureau, 1993). The median age of American Indians, Eskimos, and Aleuts is estimated to be under 27 years, compared with the median age for all races, estimated at about 35 years (U.S. Census Bureau, 2000). Yet tribal youth have few opportunities for social, educational, or vocational development. Findings from the Bureau of Justice Statistics (BJS) 1999 report *American Indians and Crime* highlight some of the critical issues facing tribal youth and their families.

- Rates of violent victimization in every age group are higher among American Indians [2] than among all other races.
- In 1995, American Indians were estimated to have had the highest rate of abuse or neglect of children under age 15 of any racial or ethnic group; and between 1992 and 1995, American Indians had the greatest increase in this rate of any racial or ethnic group.
- American Indians under age 18 are arrested for alcohol-related violations at a rate twice the national average.

These findings only begin to express the difficulties faced by Indian tribes and tribal youth. For example, domestic violence service providers claim that tribal children are victims of sexual assault at levels that are much higher than reported and that many of these assaults are by family members. Further, tribal women report levels of intimate partner violence that are higher than rates for any other ethnic group (Tjaden and Thoennes, 2000). Tribal law enforcement responses to a Federal Bureau of Investigation survey suggest that gangs at varying levels of sophistication are found in virtually all reservations and adjacent service areas. Further, much of the increase in violent crime in these areas over the past decade may be attributable to these gangs (National Alliance of Gang Investigators Associations, 2000). One Michigan tribe's Junior Tribal Council, which is composed of youth who are tribal members, recently listed substance abuse, violence, teen pregnancy, and sexually transmitted diseases among the key issues and concerns of tribal youth. A recent report on justice for tribal youth (Coalition for Juvenile Justice, 2000) draws on the experiences of tribal youth and practitioners to identify substance abuse, depression, and gang involvement as the three major contributors to tribal juvenile delinquency.

[1] Federally recognized Indian tribes include Alaska Native tribal governments. Under current law (Fiscal Year 2000 Consolidated Appropriations Act), the term ''Indian tribes,'' ''tribal,'' or ''tribe(s)'' means: ''Any Indian tribe, band, nation or other organized group or community, including Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act * * *, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''

[2] The BJS report includes Alaska Natives and Aleuts under the term ''American Indian.''

Taken together, these reports and research findings paint a picture in which tribal members experience disproportionately high levels of violent victimization, intimate partner violence, child abuse and neglect, youth gang involvement, and the co-occurrence of alcohol use and offending. These difficulties are compounded by a lack of available resources for families, youth, social services, and law enforcement. Youth growing up under these circumstances are exposed to a variety of risk factors that increase their chances of becoming involved in delinquency and violent offending.

It is important to recognize that tribes vary considerably in the extent to which these and other problems occur, and even under difficult circumstances, many tribal youth do not become involved in violent or nonviolent offending. These resilient youth may draw on internal resources; the support of family, friends, and community; and spiritual resources to guide them through difficult childhood and adolescent years. Cultural traditions practiced by some tribes may contribute to this resiliency. For example, tribes that foster close ties with extended family members support a family environment in which youth may have multiple positive adult role models. This is among the most widely acknowledged factors contributing to resiliency.

Understanding of risk and protective factors that are related to the development of juvenile offending has greatly improved in the past decade (Loeber and Farrington, 1998; Hawkins et al., 2000; Thornberry, Huizinga, and Loeber, 1995). Risk factors are generally described as falling into five categories: individual, family, school, peer, and community. The accumulation of risk factors within or across these categories greatly increases the probability that a given youth will offend. Further, some risk factors appear to have greater or lesser influence during different developmental stages of youth (Tatem Kelley et al., 1997; Lipsey and Derzon, 1998).

Protective factors provide a buffering effect against risk factors (Hawkins, Catalano, and Miller, 1992; Thornberry, Huizinga, and Loeber, 1995). Protective factors are somewhat less well understood at this point, but they include individual factors (e.g., high intelligence and positive social orientation), factors related to social bonding (e.g., supportive relationships with family members or other adults), and healthy beliefs and clear standards for behavior (e.g., norms that oppose crime and violence). Since protective factors also tend to have a cumulative effect, youth who are exposed to a large number of protective factors show greater resilience to the risk factors in their lives. Despite advances in understanding risk and protective factors, many important questions still remain to be answered.

Questions remain about the application of risk and protective factors to tribal youth and the effects of distinctive cultural and historical influences on the development of risk and protective factors for delinquency. Longitudinal research on both risk and resiliency among tribal youth is sorely needed. For this research to be most useful, it must be grounded in both the scientific and tribal traditions of understanding delinquency.

Goals

The goal of this feasibility study is to plan and develop the design for an accelerated longitudinal study of tribal youth risk and resiliency. The longitudinal study will enhance and extend the current understanding of individual, family, community, peer, and school factors that influence delinquency and resiliency, with special attention to the distinct cultural and historical context of tribal youth. Findings will have direct implications for prevention activities with at-risk tribal youth and intervention activities with juvenile offenders. A secondary goal of this effort is to contribute to the development of effective and culturally appropriate research approaches with tribal populations.

Objectives

The objectives for the feasibility study include, but are not limited to, the following:

- Prepare a comprehensive literature review of research findings related to risk and resiliency among tribal youth.
- Develop and implement a sampling strategy for selecting tribes that will be invited to participate in the longitudinal study.
- Conduct ongoing negotiations and relations with tribes to engage them in the project, secure community support, and coordinate the development of the study design and measures.
- Develop the overall study design in accordance with state-of-the-art longitudinal social science research and tribal values, traditions, and customs as reflected in the study sites. This design will include strategies for sampling and tracking individual study participants.
- Develop and pilot test instruments and measures in accordance with other prominent longitudinal studies of youth and tribal values, traditions, and customs as reflected in the study sites.
- Conduct a tribal- or community-level analysis that establishes the cultural and historical backdrop for youth and includes examination of the current juvenile justice system in each of the study sites.

Project Strategy

The first 2 years of this project will focus on a feasibility study that will include planning, coordination, and development activities toward the implementation of an accelerated longitudinal study in subsequent years. Based on the outcomes of the first 2 years and the availability of funding, OJJDP anticipates supporting the longitudinal study for up to 5 years beyond the initial feasibility study. OJJDP will continue to serve as the lead agency throughout this project; however, OJJDP will work with the grantee to seek additional public and private funding sources to help support this study beyond the first 2 years.

The study will assume a developmental approach involving successive waves of interviews with multiple cohorts of tribal youth and their family members consistent with an accelerated longitudinal design. Accelerated longitudinal designs collect data from multiple age cohorts simultaneously with the advantage of providing coverage over a larger portion of the life span than if only one cohort were included. For example, if two cohorts were tracked for 5 years beginning at age 5 and age 10, the 5-year study would cover developmental issues encountered over a 10 year span (i.e., at ages 5 through 15). This developmental approach will be linked to a broader tribal- or community-level analysis that will focus on the cultural and historical backdrop for youth in each of the study sites. This analysis must include examination of the current juvenile justice system in each of the study sites.

Many of the activities in the first 2 years can be broken down into the following categories: elaborating the scope and focus of inquiry, developing the sampling strategy, coordinating with tribes, planning for data collection, conducting the site-level analysis, and establishing a project Advisory Group.

Elaborating the Scope and Focus of Inquiry

The social sciences offer multiple theories that may guide inquiry into youth risk and resiliency. Indian tribes also maintain cultural beliefs, values, and theories that suggest explanations of the causes and contributing factors to

delinquency and resiliency. This study must be informed by both social science and tribal traditions as they are reflected in the study sites to be selected. First, the feasibility study must include a comprehensive literature review and synthesis of existing research addressing risk and protective factors for tribal delinquency and adult criminal behavior. This review should compare and contrast risk and protective factors as they relate to tribal and nontribal populations. Second, the research team must work with tribal members to elicit and articulate indigenous beliefs and theories about delinquency and resiliency at each of the sites that participate in this project. During the feasibility study, applicants should anticipate working with tribes to gather this information through focus groups, key leader or community member interviews, review of tribal documents and history, or a combination of methods as appropriate. The social science literature review will be integrated with grounded theory from the participating tribes to form the theoretical foundation for the longitudinal study.

Developing the Sampling Strategy

The sampling strategy for this study must address the selection of three federally recognized tribal sites. The design will also have to address the selection of approximately 1,000 individual tribal youth in each site to participate in the successive waves of data collection. No three tribes can possibly constitute a nationally representative sample of all tribes, and the requirement of gaining access to approximately 1,000 youth in each study site will skew the pool of eligible sites toward the larger tribes. With such considerations in mind, applicants will be responsible for presenting a logical and practical framework for a sampling design that will be further developed and implemented during the early phases of the feasibility study. Additional considerations in sampling of sites may include, but are not limited to, regional variations, linguistic variations, size of crime problem, urban versus rural sites, reservation versus nonreservation sites, type of justice system (e.g., Western, tribal, or dual), and logistical concerns such as expense and probability of study completion.

The sampling of individual youth within each site should be consistent with an accelerated longitudinal design as described above. Under this design, multiple tribal youth cohorts will be selected for participation. Applicants should consider including a perinatal cohort (age 0) at the first wave of data collection and including youth ages 5 to 6 years, 10 to 11 years, and 15 to 16 years in the remaining cohorts. The inclusion of a perinatal cohort may introduce the need for alternative measures, such as videotaping of parent-child interactions in the early years, that may cause greater concern to tribes and parents than interview methods. Such issues should be discussed in the project design section of the application and negotiated with the tribes that are selected during the conduct of the feasibility study and the development of the project design.

Coordinating With Tribes

All too frequently, research with tribal populations has been conducted with little regard for local culture and little respect for research participants or tribal sovereignty. This has led to well-founded skepticism among some tribal members towards researchers (see Trimble, 1977; Baldwin, 1999). This study must be conducted in close coordination with the participating tribes. Applicants will have to demonstrate the ability to coordinate effectively with tribes through experience on previous or ongoing projects. Letters of reference from tribal leaders are encouraged. During the 2-year feasibility study, researchers will need to confirm tribal commitment to the project and negotiate strategies for tribal participation. Negotiations should establish procedures for tribal review and comment on study design, data collection methods, data collection instruments, preliminary and final reports, protection of human subjects and of tribal confidentiality, and other issues of concern to the tribes (see Beuvais, 1999). Depending on local circumstances and traditions, obtaining tribal approval and commitment may go beyond working with officials and governing bodies and extend to the inclusion of elders, spiritual leaders, and other community stakeholders. With regard to elected leadership, applicants should anticipate the possibility of midproject changes in administrations and plan for ongoing efforts to maintain tribal support.

During the implementation of this study, it will be necessary for researchers to hire local tribal staff members for activities related to data collection, data management, and administration. Applicants are advised to hire local tribal staff during the feasibility study as well. Gainful employment and skill development among tribal members are possible benefits that tribes may derive from participation in this study. Other possible benefits to the tribes should be discussed in the application and in negotiations with tribes during the feasibility study. Examples of such benefits include improved access to training and technical assistance resources, regular reports on the status of tribal youth in the study sample, and educational and vocational opportunities for students, staff, and faculty at tribal colleges.

Planning for Data Collection

Beyond developing a strategy for sampling individual study participants, the grantee must develop detailed plans for tracking and interviewing youth over successive waves of data collection during the study. Plans must be made for recruiting and training tribal interviewers, transporting interviewers to remote locations, and maintaining the confidentiality and integrity of data as they are collected, coded, and entered into a database. Valuable guidance on such operational aspects of conducting longitudinal studies can be found in Stouthamer-Loeber, van Kammen, and Loeber (1992).

The literature review discussed previously should serve as a starting point for the design of instruments and measures to be used during the study. However, instrument development should be carefully planned to yield culturally appropriate measures that reflect both social science theory and tribal traditions of understanding delinquency and resiliency in the three study sites. This will require extensive coordination with the tribal stakeholders and careful pilot testing of instruments.

Conducting the Site-Level Analysis

It will be necessary to examine community- or tribal-level factors that set the context for delinquency and resiliency in each of the study sites. This analysis will include collection of historical and cultural data of relevance to youth delinquency and resiliency and an examination of the current juvenile justice system in each site. Some of these data will be available through archival sources; however, it will also be necessary to collect oral accounts from elders, community leaders, spiritual leaders, juvenile justice professionals, and tribal youth in the juvenile justice system. This analysis will be conducted during the 2-year feasibility study and the findings should be integrated, where appropriate, into the study design and measures during implementation of the longitudinal study.

Establishing an Advisory Group

An Advisory Group will provide additional oversight and guidance throughout the feasibility study and the subsequent implementation of the longitudinal study. This group should include tribal members with expertise in juvenile justice issues or social science (preferably longitudinal) research.

The Advisory Group should include at least one nationally recognized expert in longitudinal social science research related to juvenile justice. Finally, when the three sites have been selected and confirmed, one tribal leader from each site will be asked to serve on the Advisory Group. It is not necessary to include letters of commitment from potential Advisory Group members in this application, but a list of potential candidates must be included in the project design.

Products

The grantee will submit progress reports to OJJDP at 6, 12, and 18 months into the project. These reports will describe the status of selection of sites, negotiation with tribes, development of the study design and instruments, the site-level analysis of cultural and historical factors that may influence delinquency and resiliency, project staffing, and any other issues that are relevant to the completion of the study.

By the end of the first 12 months of the feasibility study, the comprehensive literature review of risk and protective factors for tribal youth must be complete, with a summary version of this review prepared for publication as an OJJDP Bulletin. By the end of the 20th month of the feasibility study, the final planning report must be complete and ready for review by OJJDP and the Advisory Group. In this report, the grantee must clearly state theoretical and methodological commitments that will guide the inquiry. The study design and research instruments must be fully developed and pilot testing must be complete. The basic analysis strategy must be described. The analysis of cultural and historical factors that may influence delinquency and resiliency in each site must be complete, including an examination of the current juvenile justice system in place at each site. The remaining 4 months of this project period will be spent finalizing and fine tuning the plans laid out in the final report with the three sites, the Advisory Group, and OJJDP.

Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, institutions, tribal communities, and individuals, or any combination of the above. Private, for-profit organizations must agree to waive any profit or fee. In the case of joint applications, one applicant must be clearly indicated as primary (for correspondence and award purposes) and the other(s) listed as coapplicant(s). OJJDP encourages collaborative relationships among researchers, practitioners, and tribal entities.

Selection Criteria

Applications will be evaluated and rated by a peer review panel according to the criteria outlined below. In addition, the extent to which the project narrative makes clear and logical connections among the components listed below will be considered in assessing a project's merits.

Problems To Be Addressed (25 points)

Applicants must demonstrate a thorough understanding of the unique challenges that face tribal youth, families, and communities. This discussion should reflect an understanding of the risk and protective factors faced by this population. A clear case must be made for the value of conducting longitudinal research to enhance and extend the current understanding of individual, family, community, peer, and school factors that influence delinquency and resiliency in tribal youth. The case also must be made for including a focus on the cultural and historical context of these youth in the longitudinal research. The discussion must reflect a thorough understanding of issues related to conducting research with Indian tribes, including specific challenges and opportunities. This section must include a discussion of the current status and critical areas for further development of effective and culturally appropriate research approaches and instruments for use with tribal youth.

Goals and Objectives (10 points)

Applications must include clearly stated goals and objectives. The goals and objectives stated in this announcement should serve as a starting point, but applicants must expand on these to reflect planning activities outlined in the project design. Objectives must include clearly defined, realistic, and measurable tasks and outcomes that will enable the applicant to achieve the goals of the project.

Project Design (30 points)

Applicants must present a well-detailed proposed feasibility study that calls for and ensures broad involvement of tribal stakeholders at each of the sites. Applicants should address the requirements and tasks listed in the ''Project Strategy'' section of this announcement and any other significant issues related to conducting this longitudinal study. This section must include plans for developing a logical sampling design for selecting sites, a comprehensive literature review, an Advisory Group (with a list of potential candidates), and the study design and measures. It must also include plans for negotiating and coordinating with tribes; eliciting grounded theory reflecting values, traditions, and beliefs regarding delinquency in the three tribal sites; and conducting a tribal- or community-level analysis that establishes the cultural and historical backdrop for youth and includes examination of the current juvenile justice system in each of the study sites.

The application must include a timeline that indicates when specific tasks will be started and completed and when products will be submitted. The timeline must be referenced as appropriate in the narrative but should be placed in appendix A of the application. The timeline should allow for tribal review of procedures to protect the rights and privacy of research participants (see below).

Management and Organizational Capability (25 points)

Applicants must demonstrate that project staff and consultants possess experience, knowledge, and ability related to conducting longitudinal research, studying juvenile justice issues, and working collaboratively with tribal leaders, juvenile justice system professionals, and community members. Applicants are strongly encouraged to include qualified tribal researchers and juvenile justice professionals on their staff. This section must include the names of responsible individuals and key consultants, their time commitments, and their major tasks. In particular, applicants must ensure that the tasks delineated in the project timeline (see ''Project Design'' above) are adequately staffed. Résumés for key staff members and consultants should be included in appendix B.

Applicants must demonstrate organizational capacity and the existence of a management structure that will support the longitudinal research with tribal populations and achievement of project goals and objectives in an efficient and cost-effective manner. Applicants should include a description of any similar projects undertaken previously. Letters of commitment from consultants or

proposed contractors must be included in appendix C of the application. Applicants are also encouraged to include letters of reference from tribal leaders in appendix C.

Budget (10 points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, allowable, and cost-effective in relation to the activities to be undertaken. All budgeted costs should be directly related to the achievement of project goals and objectives. A brief budget narrative should be included in this section. It will be necessary to estimate some travel costs because the sites are not yet selected. Estimates should be consistent with the proposed framework for developing the site sampling strategy. Applicants should also budget for at least one meeting in Washington, DC, between senior project staff and OJJDP staff during each of the first 2 years.

Format

Applications must include a program narrative of no more than 40 double-spaced pages. The page limit does not include the budget narrative, appendixes, application forms, or assurances. Applicants shall identify the author(s) responsible for each narrative section. Appendix A shall contain the project's timeline with dates for initiation and completion of critical project tasks. Appendix B shall contain the résumés for the principal investigator and key staff members and consultants. Appendix C shall include all necessary letters of cooperation or support.

The narrative portion of the application must be submitted on 8½-by 11-inch paper using a standard 12-point font. The application must be double spaced and printed on one side of the paper only, with the narrative preceded by an abstract of no more than 300 words. These requirements are necessary to maintain a fair and uniform set of standards among all applicants. If the application fails to conform to these standards, it will not be eligible for consideration.

Award Period

The feasibility study project will be funded for an initial 2-year budget and project period. Funding for conducting the longitudinal study beyond the initial budget period depends on the outcomes of the feasibility study, grantee performance, availability of funds, and other criteria established at the time of award.

Award Amount

Up to $650,000 is available for the initial 2-year budget and project period.

Confidentiality and Human Subjects

U. S. Department of Justice regulations require that projects involving research or statistics must maintain the confidentiality of information identifiable to a private person and that human research subjects must be protected from unreasonable risks and properly informed of the potential harms and benefits from their participation in research. Applicants must comply with the confidentiality requirements of 42 U.S.C. section 3789g and 28 CFR Part 22 by submitting a Privacy Certificate in accordance with 28 CFR section 22.23 as part of the application package. (See appendix B, ''Privacy Certificate Guidelines and Statement,'' in the *OJJDP Application Kit.*)

If the project involves research using human subjects, the applicant must comply with Department of Justice regulations at 28 CFR Part 46. This part generally requires that an Institutional Review Board (IRB) review and approve such projects unless the project is determined to be exempt from the regulatory requirements. IRB review is not required prior to submission of the application. However, if an award is made and the project involves research using human subjects, OJJDP will place a special condition on the award requiring that the project be approved by an appropriate IRB before Federal funds can be expended on activities involving human research subjects. Applicants should include plans for IRB review, where applicable, in the project timeline submitted with the proposal.

As sovereign nations, Indian tribes may have specific requirements for confidentiality and approval of research and evaluation projects. Tribal policies and procedures for reviewing and approving research apply to this program and must be met before Federal funds can be expended on activities involving human research subjects. Tribal review and approval should be considered in the project timeline submitted with the proposal.

Catalog of Federal Domestic Assistance (CFDA) Number

The CFDA number, required on Standard Form 424, ''Application for Federal Assistance,'' is 16.731. Standard Form 424 is included in the *OJJDP Application Kit,* which can be obtained by contacting the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org. The *Application Kit* is also available online at *www.ojjdp.ncjrs.org/grants/2000__app__kit/index.html.*

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice is requesting applicants to provide information on the following: (1) Active Federal grant awards supporting this project or related efforts, including other awards from the Department of Justice; (2) any pending applications for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) and (2) with the funding requested in this application. For each Federal award, applicants must include the program or project title, the Federal granting agency, the amount of the award, and a brief description of its purpose.

The term ''related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (i.e., the proposed project would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project (e.g., to implement a planning effort funded by other Federal monies or to provide a substance abuse treatment or educational component within an existing juvenile justice project).
- Services of some kind (e.g., technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535.

Note: In the lower left-hand corner of the envelope, the applicant must clearly write ''Longitudinal Study of Tribal Youth Risk and Resiliency.''

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. ET on June 11, 2001.

Contact

For further information, contact Phelan Wyrick, Program Manager, Research and Program Development Division, Office of Juvenile Justice and

Delinquency Prevention, at 202–353–9254. Alternatively, e-mail inquiries can be sent to wyrickp@ojp.usdoj.gov.

Resources

Baldwin, J. 1999. Conducting drug abuse prevention research in partnership with Native American communities: Meeting challenges through collaborative approaches. *Drugs and Society* 14:77–92.

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Bureau of Justice Statistics. 1999. *American Indians and Crime.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Coalition for Juvenile Justice 2000. *Enlarging the Healing Circle: Ensuring Justice for American Indian Children.* Report. Washington, DC: Coalition for Juvenile Justice.

Hawkins, J.D., Catalano, R.F., and Miller, J.Y. 1992. Risk and protective factors for alcohol and other drug problems in adolescence and early adulthood: Implications for substance abuse prevention. *Psychological Bulletin* 112 (1):64–105.

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Lipsey, M.W. and Derzon, J.H. 1998. Predictors of violent or serious delinquency in adolescence and early adulthood: A synthesis of longitudinal research. In *Serious & Violent Juvenile Offenders: Risk Factors and Successful Interventions*, edited by R. Loeber and D.P. Farrington. Thousand Oaks, CA: Sage Publications.

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Thornberry, T.P., Huizinga, D., and Loeber, R. 1995. The prevention of serious delinquency and violence: Implications from the Program of Research on the Causes and Correlates of Delinquency. In *A Sourcebook: Serious, Violent, & Chronic Juvenile Offenders*, edited by J.C. Howell, B. Krisberg, J.D. Hawkins, and J.J. Wilson. Thousand Oaks, CA: Sage Publications, pp. 213–237.

Tjaden, P., and Thoennes, N. 2000. *Extent, Nature, and Consequences of Intimate Partner Violence: Findings From the National Violence Against Women Survey.* Research Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

Tonry, M., Ohlin, L.E., and Farrington, D.P. 1991. *Human Development and Criminal Behavior: New Ways of Advancing Knowledge.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

Trimble, J. 1977. The sojourner in the American Indian community: Methodological concerns and issues. *Journal of Social Issues* 33 159–174.

U.S. Census Bureau. 1993. *We the First Americans.* Report. Washington, DC: U.S. Department of Commerce, Economics and Statistics Administration.

U.S. Census Bureau. 2000. Native resident population estimates of the United States by sex, race, and Hispanic origin: April 1, 1990 to July 1, 1999. Washington, DC: Bureau of the Census, Population Estimates Program, Population Division. Retrieved October 24, 2000, from the Web: www.census.gov/population/estimates/nation/nativity/nbtab003.txt.

Dated: March 23, 2001.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–7646 Filed 3–27–01; 8:45 am]

BILLING CODE 4410–18–P

Federal Register

Wednesday,
March 28, 2001

Part VII

Department of Education

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children with Disabilities; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children with Disabilities

AGENCY: Department of Education.

ACTION: Notice of Final Waiver.

SUMMARY: We waive the requirements in EDGAR at 34 CFR 75.261(a) that generally prohibit project extensions that involve the obligation of additional Federal funds as applied to the Parent Training and Information Centers (PTIs) funded in Fiscal Year (FY) 1999. As a result of this waiver, these Centers are authorized to carry out additional activities to support fifth year funding. We will issue one-year continuation awards in FY 2003 to the fifteen (15) Parent Training and Information Centers project funded in FY 1999 in order to ensure the most efficient use of Federal funds. Only those grantees who currently hold the FY 1999 four year grant awards under the Parent Training and Information Centers projects would be eligible to apply for the funds.

EFFECTIVE DATE: This waiver takes effect on April 27, 2001.

FOR FURTHER INFORMATION CONTACT: For further information on the waiver under the Training and Information for Parents of Children with Disabilities Program contact Debra Sturdivant or Donna Fluke, U.S. Department of Education, 400 Maryland Avenue, SW., room 3527, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–8038 and 205–9161, respectively. FAX: (202) 205–8105. Internet: *Debra_Sturdivant@ed.gov* and *Donna_Fluke@ed.gov*

If you use a telecommunication device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On June 9, 1999, we issued a Notice Inviting Applications for New Awards under the Parent Training and Information Centers Program for Fiscal Year 1999. In this notice, the Department announced that it would make fifteen awards of up to 48 months (four-year cycle awards) under 34 CFR 75.105(c)(3) and the Individuals with Disabilities Education Act (IDEA) to support the establishment of Parent Training and Information Centers that provide training and information to parents of children with disabilities to help improve results for their children. Subsequently the Department determined that these awards should be extended for an additional year.

The fifteen Centers affected by this notice include thirteen State awards and two other awards, one that focuses on the needs of Native American families, and one that focuses on military families. The grant period for these centers extends for four years until May 31, 2003.

Reasons

The IDEA Amendments of 1997 strengthened the role of parents and increased their involvement in decisions about their children's education. Beginning with the awards made under this program in FY 2000, we have determined that making awards for five-year periods reduces the frequency of disruption in services resulting from changes in grantees. On this basis, we believe that it makes the most programmatic sense to issue continuation awards to the existing fiscal year 1999 grantees in order to make their award cycle consistent with the fiscal year 2000 five-year cycle awards. However, to do so, we found it necessary to waive the requirement in 34 CFR 75.261(c)(2), which prohibits project period extensions that involve the obligation of additional Federal funds. We are issuing this waiver at this time in order to give the affected grantees early notice of the availability of a fifth year of funding.

Public Comment

On November 17, 2000, we published a notice of proposed waiver for this program in the **Federal Register** (65 FR 69620). In response to the Assistant Secretary's invitation in the notice of proposed waiver, we did not receive any comments. This notice of proposed waiver included a discussion of the significant issues on page 69620. Except for minor editorial and technical revisions, there are no differences between the notice of proposed waiver and this notice of final waiver.

Waiver

Based on the response to the notice of proposed waiver, we waive the requirements of 34 CFR 75.261 to the 15 Parent Training and Information Centers (PTIs) receiving four-year awards beginning in FY 1999.

Paperwork Reduction Act of 1980

This waiver has been examined under the Paperwork Reduction Act of 1980 and has been found to contain no information collection requirements.

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(Catalog of Federal Domestic Assistance Number 84.328, Training and Information for Parents of Children with Disabilities.)

Dated: March 22, 2001.

Andrew J. Pepin,

Executive Administrator, for Special Education and Rehabilitative Services.

[FR Doc. 01–7589 Filed 3–27–01; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Wednesday,
March 28, 2001

Part VIII

Department of Education

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children with Disabilities; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children with Disabilities

AGENCY: Department of Education.

ACTION: Notice of waiver.

SUMMARY: Effective February 28, 2001, the Secretary waived the requirements in Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.261(a) that generally prohibit project extensions involving the obligation of additional Federal funds to enable twelve (12) Parent Training and Information Centers (PTIs) to receive funding through the end of fiscal year 2001. This action allows services provided by these grantees to continue uninterrupted until the grants are recompeted with the starting date of October 1, 2001. The Secretary intends to have October 1 to be the start date for all PTI project periods.

EFFECTIVE DATE: February 28, 2001.

FOR FURTHER INFORMATION CONTACT: For further information on the waiver under the Training and Information for Parents of Children with Disabilities Program contact Debra Sturdivant or Donna Fluke, U.S. Department of Education, 400 Maryland Avenue, SW., room 3527, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–8038 and 205–9161, respectively. FAX: (202) 205–8105. Internet: *Debra__Sturdivant@ed.gov* and *Donna__Fluke@ed.gov*

If you use a telecommunication device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

The following PTI grants expire before the end of fiscal year 2001:

AL H029M960028
CO H029M960026
KY H029M960013
ME H029M960029
MD H029M960015
NY H029M960020
PR H029M960024
MI H029M960022
CA H029M960006
CA H029M960007
CA H029M960036
CA H029M960039

In order to foster more efficient use of the Federal funds committed to the PTI program, the Secretary intends to start the project period for all PTI grants on October 1 of each year. In attaining this objective and avoiding any lapse in service to the intended beneficiaries, the Secretary must extend all of the above-referenced projects until September 30 so that the new project periods can begin October 1. However, to do so, the Secretary waived the requirement in 34 CFR 75.261(c)(2), which prohibits project period extensions that involve the obligation of additional Federal funds.

Also, because one of the project periods ended as early as February 28, the Secretary did not have sufficient time to obtain public comment on his intent to continue funding for all of these grants until the end of the fiscal year. It would be contrary to the public interest to have any service lapses for the beneficiaries currently being served by the affected PTI grants.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the waiver of the requirements in section 75.261 applicable to extension of project periods for the grants referred to above on a one-time only basis is procedural and does not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), proposed rulemaking is not required. In addition, for these reasons and those stated elsewhere in this Supplementary Information section, the Secretary has determined that proposed rulemaking on this waiver is unnecessary and contrary to the public interest. Thus, proposed rulemaking also is not required under 5 U.S.C. 553(b)(B).

Regulatory Flexibility Act Certification

We certify that the waiver and the activities required to extend the projects to the end of the fiscal year would not have a significant economic impact on a substantial number of small entities. The only small entities that would be affected by this proposal are the 12 PTI Centers currently receiving Federal funds whose awards expire before the end of the fiscal year.

Paperwork Reduction Act of 1980

This proposal has been examined under the Paperwork Reduction Act of 1980 and has been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened Federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the order, we intend that this document provide early notification of the Department's specific plans and actions for this program.

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(Catalog of Federal Domestic Assistance Number 84.328, Training and Information for Parents of Children with Disabilities.)

Dated: March 22, 2001.

Andrew J. Pepin,

Executive Administrator, for Special Education and Rehabilitative Services.

[FR Doc. 01–7590 Filed 3–27–01; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S.J. Res. 6/P.L. 107–5

Providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics. (Mar. 20, 2001; 115 Stat. 7)

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